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**STANDING COMMITTEE ON
COMMUNICATIONS AND
INFORMATION TECHNOLOGY
(2023-24)**

SEVENTEENTH LOK SABHA

MINISTRY OF INFORMATION AND BROADCASTING

„REGULATION OF CABLE TELEVISION IN INDIA“

FIFTY-SIXTH REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**

February, 2024/ Magha, 1945 (Saka)

FIFTY SIXTH REPORT

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Presented to Lok Sabha on 8th February, 2024

Laid in Rajya Sabha on 8th February, 2024



LOK SABHA SECRETARIAT

NEW DELHI

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**Composition of the Standing Committee on Communications and
Information Technology (2023-24)**

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Committee constituted w.e.f. 13th September, 2023 *vide* Para No.7371 of Bulletin Part-II dated 16th September, 2023.

* Col. Rajyavardhan Singh Rathore resigned from Lok Sabha w.e.f. 06th December, 2023.

** Smt. Mahua Moitra ceased to be a Member of the Lok Sabha w.e.f. 08th December, 2023.

INTRODUCTION

I, the Chairperson, Standing Committee on Communications and Information Technology (2023-24), having been authorized by the Committee do present the Fifty-sixth Report on the Subject —“Regulation of Cable Television in India” relating to the Ministry of Information and Broadcasting.

2. The Standing Committee on Communications and Information Technology (2023-24) selected this subject for detailed examination and Report to the Parliament. The representatives of the Ministry of Information and Broadcasting tendered evidence before the Committee on the subject on 14th December, 2023.

3. The Committee at their Sitting held on 06 February, 2024 considered and adopted the Report. The Committee wish to express their thanks to the representatives of the Ministry of Information and Broadcasting, Department of Telecommunications, Telecom Regulatory Authority of India (TRAI) and All India Digital Cable Federation (AIDCF) who tendered their evidence before the Committee and furnished valuable information.

4. The Committee also place on record their appreciation for the invaluable assistance rendered by the officials of Lok Sabha Secretariat attached to the Committee.

5. For facility of reference and convenience the Observations/Recommendations of the Committee have been printed in bold in Part-II of the Report.

New Delhi;
06 February, 2024
17 Magha, 1945 (Saka)

PRATAPRAO JADHAV,
Chairperson,
Standing Committee on
Communications and Information Technology.

REPORT

PART - I

I. INTRODUCTION

The Media and Entertainment (M&E) sector in India includes cable Television (TV), broadcasting, film, print, digital media, and advertising and this sector has witnessed significant growth over the years. According to a report by the Federation of Indian Chambers of Commerce and Industry (FICCI) and consulting firm Ernst & young (EY), the M&E sector is expected to reach Rs. 2.83 trillion by 2025. The cable TV industry has played a crucial role in this growth. Moreover, as stated by TRAI in its Annual Report, the Indian Cable industry has roughly grown about 5% i.e. from INR 68,500 crores in 2020-21 to INR 72,000 crores in 2021-22. This growth is due to increase in advertisement revenue. The subscription revenue on the other hand has seen a decline from INR 43,400 crores in 2020-21 to 40,700 crores in 2021-22. This decline is mainly attributable to the advent of newer technologies like OTT platforms.

2. The cable TV industry in India has been an integral part of the M&E sector and has made a significant contribution to the country's GDP. As per Annual Report of TRAI, the year-wise subscriber base of Cable TV for the past few years is as follows:

Year	Subscribers (in millions)
2018	98.5
2019	103
2020	100.9
2021	67

3. The components of the Cable TV industry in India, as provided by the Ministry of Information and Broadcasting, are as follows:-

(i) Cable Operators: Cable operators are the primary providers of cable TV services in India. They operate cable networks that transmit television signals to homes and other establishments. Cable operators are responsible for laying the cables, maintaining the network infrastructure, and providing customer support.

(ii) Multi-System Operators (MSOs): MSOs are companies that operate cable networks in multiple locations or cities. They serve as intermediaries between content providers and cable operators, providing programming to cable operators for distribution to their customers. MSOs also provide value-added services such as broadband and digital services to their customers.

(iii) **Broadcasters:** Broadcasters are companies that create and produce television programming. They sell their content to cable operators and MSOs for distribution to viewers. Broadcasters may also own and operate their own cable networks.

(iv) **Set-Top Box (STB) Manufacturers:** Set-top box manufacturers produce the hardware devices that decode cable signals and display television programming on TV screens. STBs are typically leased to customers by cable operators or MSOs.

(v) **Regulatory Bodies:** Regulatory bodies such as the Telecom Regulatory Authority of India (TRAI) and the Ministry of Information and Broadcasting (MIB) regulate the cable TV industry in India. The registration of MSOs and LCOs are done under the Cable Television Networks (Regulation) Act, 1995.

4. The Broadcasting and Cable sector comprises of Broadcasters, Distribution Platform Operators (DPOs), and Local Cable Operators (LCOs) to provide satellite television services to the consumers. As on 01.01.2022, there were 995 MSOs registered with the Ministry and as per data of Department of Posts, there are 81,706 LCOs operating in the country. An overview of the Broadcasting and Cable TV sector is as under:-

<u>Snapshot of Broadcasting Sector</u>		
S.NO	Particulars	As on September 2023
1	Number of Private Satellite TV Channels permitted by Ministry of Information and Broadcasting(MIB) i) Uplinking only -11 ii) Downlinking only -67 iii) Both Uplinking & downlinking -837	915
2	Number of Pay Channels i) SD Pay Channels -257 ii) HD Pay Channels -104	361
3	Number of FTACHannels	543
4	Number of Broadcasters (approximately)	332
5	Number of Pay Broadcasters	42
6	Number of FTA Broadcasters (approximately)	290
7	Number of FM Radio Service Providers	36
8	Number of private FM Radio Stations (Operational)	388

9	Advertisement Revenue of FM Radio Service Providers	408.37 crore
10	Number of Community Radio Stations (Operational)	465
11	Number of Pay DTH Operators	4
12	Number of Multi-System Operators registered with MIB	998
13	Number of Cable Operators	81706
14	Total Active DTH Subscribers	64.18 million
15	IPTV Subscribers	5,88,138

Other Particulars	March 2023*
Cable TV Households*	64 million
HITS Subscribers*	02 million
DD Free Dish households	50 million**
TV Revenue in the year 2022*	70,900 Crores
Subscription Revenue in the year 2022*	39, 200 Crores
Advertisement Revenue in the year 2022*	31,800 Crores
* As per the Industry Report - FICCI EY Report (April 2023) titled "Windows of opportunity - India's media & entertainment sector – maximizing across segments"	
** As per Industry Estimates	

5. In a TV service value chain, the broadcaster is responsible for uplinking the signals of their television channel to a satellite in an encrypted form. The distributor then receives these signals from the satellite and decodes them using the decoder provided by the broadcaster. The distributor is typically a company such as a Multiple System Operator (MSO), a Direct-to-Home (DTH) operator, a Headend-In-The-Sky (HITS) operator, or an Internet Protocol Television (IPTV) operator. Once the distributor has received and decoded the signals, they process and merge the TV channel signals of multiple broadcasters and platform services. After merging these signals, the distributor encrypts the combined signals and retransmits them further, either directly or through the local cable operator (LCO), to the customer. This process ensures that the customer receives a clear and uninterrupted signal from the television channel.

6. An MSO receives the signals of different television channels, combines the same and transmits this combined feed to multiple Local Cable Operators. MSOs stand at the middle point in the hierarchy of the cable services sector between the broadcasters on one side and local cable operators on the other. The MSOs established head-ends in

metros and major towns to receive TV signals from different TV broadcasters, aggregate and distribute these signals to LCOs, who further transmit it to subscribers through cables. In some instances, MSOs also provide the services directly to their consumers. Following is a pictorial representation of the Cable TV Network.

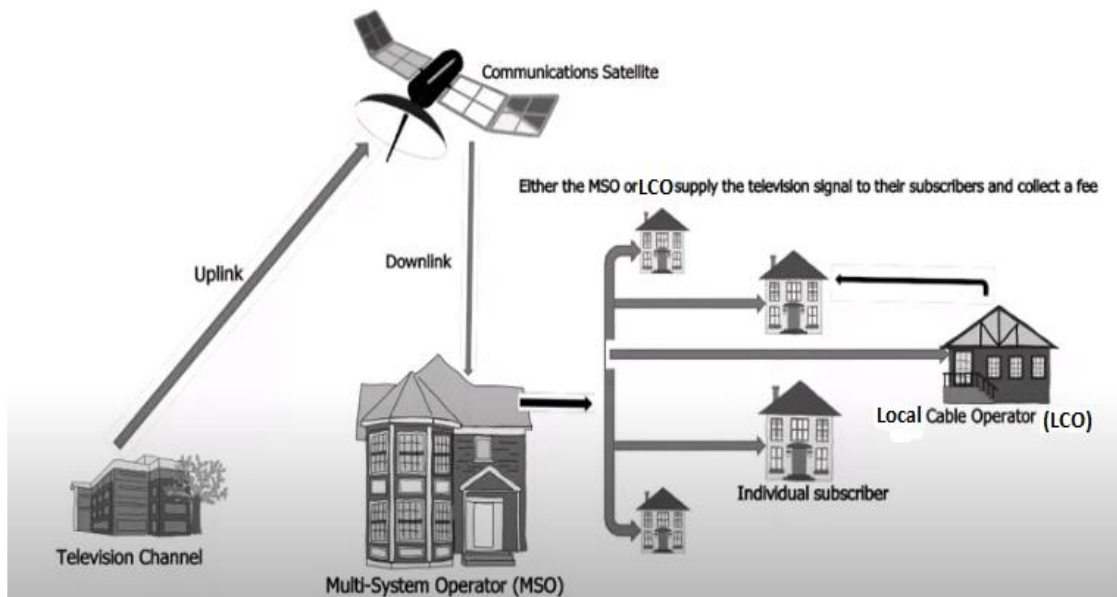


Fig-1: Network diagram of Cable TV Network

II. REGULATION OF CABLE TELEVISION IN INDIA

A. Act and Rules - Administered by the MIB

7. For regulating the cable television, the Ministry of Information and Broadcasting (MIB) has enacted the following Act and Rules and administering the same.

- (i) Cable Television Networks (Regulation) Act 1995
- (ii) Cable Television Network Rules 1994

8. The Cable Television Networks (Regulation) Act, 1995, comprising five chapters and 24 sections, includes guidelines for cable networks operating within the country. The Act outlines provisions for mandatory registration of cable operators, categorizing them into Multi-System Operators and Local Cable Operators. The Ministry of Information and Broadcasting serves as the registering authority for Multi-System Operators whereas registering authority for Local Cable Operators (LCOs) is the Head-Post office of the area in which LCOs intend to operate. The specific eligibility criterion

for these operators has been included in the Cable Television Networks Rules, 1994. A significant aspect of the Cable Television Networks (Regulation) Act, 1995 is the regulation of content through the Programme and Advertisement Codes.

9. Initially enacted to safeguard subscriber interests and prevent the transmission of content against national interests, the Act has undergone amendments to adapt to evolving technologies and industry dynamics. One crucial amendment in 2011 introduced Section 4A, empowering the Central Government to mandate cable operators to transmit or re-transmit programs in an encrypted form through digital addressable systems (DAS). This led to the phased implementation of digitization in cable networks, concluding successfully in 2017.

10. The CTN Act, 1995 has also undergone amendments through the Jan Vishwas Act, 2023. These amendments have replaced the previous stringent measures of imprisonment and fixed fines with a more flexible approach, allowing for warnings, advisories, or fines up to INR 20,000 for the first offense. The Act further adopts a progressive penalty system, imposing escalating fines, up to INR 1 lakh, for repeated offenses within a three-year period. In cases of persistent violations, the designated officer is empowered to cancel registration, albeit after providing a fair opportunity for a hearing. This comprehensive set of reforms reflects a commitment to modernize CTN enforcement, adapting to the evolving television landscape while safeguarding individual rights throughout the process.

11. On the need for amendment of the CTN Act, 1995, the Ministry of information and Broadcasting replied as under:-

—Parity with other emerging technologies such as OTT has been the constant demand of the cable TV industry. The differential treatment of the content over different platforms (such as Programme Code and Advertisement Code for TV channels and IT Rules, 2021 for content over internet) is one of the primary reasons for distinctive features for each of the broadcasting services.

The Cable Television Networks (Regulation) Act, 1995 may be amended primarily focusing on creating a level playing field for all broadcasting service. There is need to address the needs of satellite based technologies which are being regulated through the old legislation. This Ministry has prepared a draft Broadcasting Services (Regulation) Bill, 2023 which is currently present in public domain for comments of stakeholders/general public. This proposed legislation aims to serve as a comprehensive framework governing various

broadcasting services and emerging technologies”.

12. It has been noted from the website of the Ministry of Information and Broadcasting the last date for seeking suggestions/feedback/comments/inputs/views from general public/ stakeholders on the draft Broadcasting Services (Regulation) Bill, 2023 was 15.01.2024.

B. TRAI's Regulatory Framework for Broadcasting & Cable TV Sector

13. On 9th January 2004, the Government notified Broadcasting services and cable services to be telecommunications service in accordance with the proviso to clause (k) of Sub-section (1) of Section 2 of the Telecom Regulatory Authority of India Act, 1997 (TRAI Act). This notification enabled Telecom Regulatory Authority of India (TRAI) to regulate the Broadcasting and Cable Services. As per the provisions of the TRAI Act (as amended) TRAI has two types of functions, that is Regulatory and Recommendatory. TRAI has issued several recommendations for the orderly growth of the Cable Television industry and has notified several regulations and Tariff Order from time to time for enabling growth of the broadcasting and cable TV sector. Telecom Regulatory Authority of India (TRAI) is the authority which oversees issues pertaining to tariff, quality of service (QoS), and interconnection arrangements among different service providers in accordance with the TRAI Act of 1997.

14. The Cable Television sector underwent transformation to Digital Addressable System that was completed in March 2017. Therefore, TRAI notified the Regulatory Framework for Digital Addressable Systems in March 2017 after due consultations that lasted for more than one and half years. This framework was duly implemented on 29 December 2018 after satisfying the legal challenges. The framework (as amended) comprised the following Tariff Order and Regulations:

- i. The Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order (Tariff Order);
- ii. The Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, (Interconnection Regulations);

- iii. The Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, (QoS Regulations).

[Hereinafter, the two Regulations & the Tariff order are collectively referred to as 'the Regulatory Framework']:

15. Primary objectives of the regulatory framework are to ensure-
 - (i) Transparency, non-discrimination, non-exclusivity for all stakeholders in value chain;
 - (ii) Adequate and real choice to subscribers/customers and;
 - (iii) Alignment of commercial interests of broadcasters and distributors of television channels to enable the distributors of television channels to recover their network and distribution cost and the broadcasters to monetize their channel prices; and
 - (iv) Reduction in disputes among stakeholders.

16. Salient features of the above three extant regulatory framework are as follows:
 - (i) Telecommunication (Broadcasting and Cable Services) (Eighth) (Addressable Systems) Tariff Order, 2017 [aka Tariff Order]
 - A common tariff framework for all addressable systems namely DTH, Digital Cable TV (DAS), HITS and IPTV.
 - Broadcasters to declare maximum retail price(MRP)(excluding taxes)of their a-la-carte pay channels for subscribers. No ceiling on the MRP of a channel.
 - A broadcaster can also offer bouquets of its pay channels and declare MRP (excluding taxes) of bouquets for subscribers. However, MRP of such bouquet(s) of pay channels will not be less than 55% of the sum of maximum retail price of the a-la-carte pay channels forming part of the bouquet.
 - No channels with MRP more than Rs. 19/- is permitted to be put in a bouquet
 - Separate bouquet for Pay and Free to Air channels.
 - Charges payable by a subscriber for network capacity and content have been separated.
 - Monthly Network Capacity Fee (NCF) of maximum Rs. 130 (excluding taxes) per set top box, to be paid by a subscriber to the distributor of television channels for a capacity of 200 SD channels.
 - NCF of maximum Rs. 160/- for more than 200 SD channels
 - NCF for 2nd & subsequent TV cannot be more than 40% of declared NCF for 1st TV connection.
 - Subscribers can choose different sets of channels for each TV connection in a multi-TVhome.

- Flexibility for DPOs to declare different NCFs for different geographical regions/areas within its servicearea.
- DPOs may offer discounts on NCF and DRP on long term subscriptions.
- Any bouquet, formed by either the broadcaster or the distributor of television channels will not contain HD and SD variants of the same channel as well as any premium channel.

(ii) Telecommunication (Broadcasting and Cable Services) Interconnection (Addressable Systems) Regulations, 2017 – [aka Interconnection Regulations]

- A common interconnection framework for all addressable systems namely DTH, HITS, DAS and IPTV.
- —Mst carry” provision for all addressable systems, on first come first serve basis. Distributor of television channels to publish information about its platform including available capacity and declare the rate of carriage fee.
- The interconnection agreements to be signed in accordance with the reference interconnection offer(RIO).
- 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.
- Broadcaster to offer to a distributor, a minimum of 20% of the maximum retail price of its pay channel(s) or bouquet(s) of pay channels as distribution fee.
- Broadcaster to offer discounts on the maximum retail price provided that the sum of discounts and distribution fee in no case shall exceed 35% of the maximum retail price, so declared.
- DPOs to provide Monthly Subscribers Report to broadcasters on weekly basis.
- Standard format of application for distributor of television channels for obtaining signals of television channel(s) from broadcaster and standard format of application for a Broadcaster for access of network from distributor for re-transmission of a television channel(s).
- Format of subscription report to be provided by a distributor of television channels to a Broadcaster including free to air channels.
- The framework for subscription audit & technical audits.
- Extension of Model Interconnection Agreement (MIA) and Standard Interconnection Agreement (SIA) framework applicable for MSOs to HITS and IPTV operators.

(iii) Standards of Quality of Service and Consumer Protection (Digital Addressable Systems) Regulations, 2017 – [aka Quality of service & Consumer Protection Regulations]

- Common framework for standard of QoS and consumer protection across digital addressable platforms viz DTH,DAS, IPTV,HITS.
- Choice of subscription to a-la-carte channels and bouquets of channels by subscribers have been simplified.
- Simplification of consumer premises equipment /Set top Box schemes.
- Publicity of services using a designated link on the website of the DPOs called —Consumer Corner”.
- Simplification of Consumer Application Form (CAF)and encouraging use of electronic CAF.
- Subscribers can get services temporarily suspended for up to three months in a year.
- Mandatory provision to record the consent of the subscribers for any change in the subscribed packages.
- Protection of consumer interest in case of prolonged and continued disruption in service beyond 72hrs.
- As per data provided by some DPOs, the average consumer price increase from 2019 to 2023 is not more than 4% on annual basis.

17. Some of the salient aspects of the Interconnection Regulations 2017 and the Tariff Order 2017 relating to Broadcasters, DPOs and for consumers are as follows:-

For Broadcasters

- For the first time since 2004, Broadcasters had full flexibility to price their TV channels. Broadcasters could now fix the Maximum Retail Price (MRP) of a pay channel for consumers.
- Price caps which were introduced in 2004 as an ad-hoc measure in the analogue mode and fixing of rates of channels by broadcasters keeping frozen analogue rates as the basis in the addressable system were removed. A broadcaster could price its channels and fix MRP for the consumer under complete forbearance.
- Flexibility was also provided to a broadcaster to offer bouquet of channels for the consumers and prescribe MRP of the same.
- The bouquets offered by the broadcasters to consumers would be provided by the DPOs to the consumers without any alteration in composition of the bouquets.
- For Channels a —Must carry” provision was prescribed for all types of distribution platforms, thereby removing entry barrier for any broadcaster. All DPOs were required to publish an RIO giving details of carriage fee. Transparent and slab-wise pricing of channel carriage fee

was mandated, thereby benefitting a broadcaster who got more eye-balls.

- Mandatory provision of Electronic Program Guide (EPG) to ensure that prices and other details of all the channels were available to the consumers transparently.
- To ensure the smooth revenue flow in the value chain and thereby reducing the disputes, a provision of mandatory and transparent third party audits of DPOs to ensure true reporting of subscriber base was provided.

For DPOs

- Broadcasters were mandated to publish a RIO giving transparent and non-discriminatory terms including discounts (if any) based on measurable parameters. This would enable DPOs in getting non-discriminatory deals on a transparent basis and scope of disputes would be reduced.
- DPOs were empowered as they could now sign and send the RIO published by any broadcaster and it is treated as a binding agreement.
- Standard format for subscription reports by DPOs and Audit mechanism was provided.
- Independent source of revenue for DPOs in form of Network Capacity fee included so that they could upgrade their network and services.
- It is pertinent to note that the cost of channel and cost of network had been made independent of each other.

For Consumers

- The consumer became the real decision maker of what she/he views and had complete freedom to choose what he/she wished to watch and pay only for that. It was mandated that all channels had to be offered on a-la-carte basis and the MRP has to be declared. Same way, the MRP of the Bouquet had to be published.
- Flexibility had been given to the DPOs to drop such channels which did not command reasonable subscription thereby increasing the capacity to carry more channels of the consumer's choice.
- Consumer was not required to pay any subscription fee for a FTA channel if he subscribed to one.
- The service providers were mandated to give full information regarding channel prices on Electronic Program Guide.
- Consumer would get clarity of the product offered and was not fleeced by smart packaging. It was mandated that FTA channels can't be clubbed with Pay channels in a Bouquet. Further, HD channels can't be clubbed with the SD version of the same channel, so that the consumer had complete clarity with respect to what is on offer.
- A transparent and rationalized pricing structure for the consumers: In the new framework, the pricing of TV channels has been separated

from the distribution cost incurred by DPO. The broadcaster would now fix the maximum retail price of its TV channels for the consumers. The DPOs could not now sell the TV channels to consumer above the MRP fixed by the broadcasters. The Free-to-air channels would now be actually free for the consumers as he/she would not be required to pay any subscription fee for FTA channels. It is to be noted that the retail price forbearance for TV channels has been continued in this model also, the only difference is that instead of fixing of the MRP by DPO in the old regime, the MRP would now be fixed by the broadcaster in the new regime. Further, the DPO is to recover its distribution costs, it would now charge the network capacity fee from the consumer separately. Therefore, each stakeholder in the value chain has been made the master of its own product. Broadcaster has been made the master of its channel while DPO has been made master of its network. In this fashion, this model addressed the malaise of irrationality and opaqueness in the pricing of TV channels to consumers, and at the same time, it ensures independent revenue streams for both DPOs and Broadcasters.

- Real and meaningful choice for consumers: The new framework provides for various safeguards for consumers against illusory pricing and gives the freedom to the consumer to choose the channels that he wishes to see and pay only for that.
- Non-discrimination and transparency :In the new framework, broadcaster has been mandated to publish on its website a Reference Interconnect Offer (RIO) for providing signals of its channels to the DPOs. This RIO would be the basis of all the interconnection agreements to be signed between broadcaster and DPOs. The discount (if any) has to be offered in the RIO itself based on objective, transparent and measurable parameters. This would enable DPOs in getting a non-discriminatory deal and it would infuse transparency in the sector and reduce the litigations/disputes. The mandate under the impugned regulations that all the interconnection agreement between the broadcaster and distributor would be signed on the basis of Reference Interconnect Offer (RIO) and the discount offered in RIO has to be objective, transparent and measurable parameters, would ensure transparency and reduce litigations that have plagued the sector since long. Thus the new framework provides for clarity, transparency, non-discrimination and gives the power to select and decide to the consumer. The new framework creates a balance wherein, must provide provisions ensure that a broadcaster has to mandatorily give channel to each DPO, must carry provision ensures that no DPO denies carrying any broadcasters' channel and transparent MRP declaration for the benefit of consumers”.

III. CONSTRAINTS/CHALLENGES FACED WITH RESPECT TO CABLE TV REGULATION IN INDIA

18. Asked about the constraints/challenges faced by the Ministry of Information and Broadcasting with respect to cable TV regulation in India and action taken to address them, they informed as under:-

(i) Under-reporting of subscribers by cable operators: The cable operators' practice of under-reporting their subscriber numbers has posed a significant challenge to the effective regulation of the industry. This behavior has led to various issues, including tax evasion and the submission of inaccurate financial returns. The number of subscribers can be verified from the audit mechanism stipulated under Regulation 15(1) of TRAI's Interconnection Regulations, 2017. Based on the reports from TRAI, the Ministry has identified Non-Compliant MSOs who have failed to get their annual audit done. The MSO registrations of over 700 MSOs have been cancelled after giving an opportunity of hearing.

(ii) Absence of oversight mechanism: Absence of robust oversight mechanism at the ground level serve as major roadblock in ensuring compliance to the relevant regulations/guidelines. The monitoring of content transmitted by cable operators is essential to ensure compliance to the provisions of the Cable Television Networks (Regulation) Act, 1995. To ensure monitoring at ground level, Prasar Bharati has been entrusted to observe the carriage of mandatory channels (as per Section 8 of the Cable Television Networks (Regulation) Act, 1995) by MSOs. Prasar Bharati shares reports of over 100 MSOs monthly and based on these reports, Ministry takes action against the violators.

Absence of central database for Local Cable Operators: Local Cable Operators (LCOs) are currently registered at the local head post office of their area of operations. The registration process is offline/manual. Due to this, there is no central database for them. This has resulted as a major constraint in initiating action against any reported contravention by them. This Ministry is in process of amending the Cable Television Networks Rules, 1994 to make the LCO registration process online with this Ministry as the registering authority. This step is expected to streamline the LCO registration process.

19. TRAI while making its submissions about the concerns that were raised by various stakeholders under the old regulatory framework stated that:-

(i) Concerns raised by Broadcasters

- There was a Freeze/ cap on wholesale rate(s) of the channels between broadcasters and distributors (B2B) since 2004. This led to distortions in pricing of channels. Another factor impinging the sector was the non-addressable systems for Cable Television causing unreliable reporting of subscription data. The price freeze and unreliable subscription data was impinging the growth of sector. As there was a provision for mutually negotiated deals, most of the industry was operating on negotiated deals between broadcasters and distribution platform owners.

- Broadcasters were pricing their channels for DPOs at whole-sale levels and that too at 35% of the analogue rates (42% under orders of Hon'ble Supreme Court). The DPOs would retail them under forbearance and give it to customers at their own prices. Even Free To Air (FTA) channels were being sold at certain price as Pay channels by DPOs.
- Price ceiling of the channels was based on the analogue era, which was about to come to an end. Prices so arrived at were unrealistic and mainly based on undeclared number of subscribers. This was required to be corrected properly in the Digital Addressable System.
- There was entry barrier for new channels/ broadcasters, as DPOs used to demand exorbitant carriage fees. Transparent carriage regime did not exist. TRAI 2017 Framework introduced Must carry provision, thereby ensuring transparency.
- There was an irrational retail pricing structure where in some cases, FTA channels were offered to consumers at a price more than the price of a pay channel. Pricing of FTA channels was affecting acceptability by the consumers and thereby impacting eyeballs and advertisement revenue of broadcasters.
- An adequate mechanism was absent for subscription report and audit. As such even though the system was addressable, implementation was difficult.
- Lack of adequate investment in the distribution infrastructure was limiting the growth of the broadcasters and consumers viewing experience.
- Non-level playing field for new and small broadcasters.

(ii) Concerns raised by Distribution Platform Operators (DPOs)

- In spite of making huge investments in the up-gradation/ expansion of the distribution networks to make everything digital there was lack of independent business model/ source of revenue and return on investment made.
- There was no independent source of revenue for DPOs to recover their distribution costs, which was affecting business viability of the DPOs. As a result, growth was stifled and quality of networks also suffered. The lack of revenue realization did not allow introduction of new services which were expected from the digitalization of the network.
- There was variation in average payout per subscriber to broadcasters by various DPOs. Example: net payment per subscribers to broadcasters by MSOs was lesser than by DTH operators.
- Rampant discrimination existed in deals/ agreements for availing channels from broadcasters. Broadcasters discriminated between similarly placed DPOs. Mutual negotiations completely de-hors the Reference Interconnect Offer (RIO) were entered into which were not known to other similarly placed DPOs. Thus, there was non-transparency and non-discrimination in provisioning of channels by

Broadcasters. Failure to enter into mutual negotiations forced DPOs to take channels on RIO rates which had unrealistic rates. Thus, Mutual negotiations and exorbitantly high RIO prices of a-la-carte channels vis-à-vis the negotiated cost per subscriber (CPS) were used as a tool by broadcasters to discriminate among DPOs.

- Non-transparency in offering of value and parameters of discounts by Broadcasters.
- Imposition of unreasonable conditions by broadcasters on DPOs thereby impacting level playing field and resulting in huge number of litigation.
- Discrimination by Broadcasters was leading to the creation of a monopoly in favour of a few DPOs, hurting small and new DPOs.
- In spite of having the permission from the Government, it was very difficult for a DPO to expand its area of operations due to delays/obstacles in signing of the interconnection agreements with broadcasters.

(iii) **Concerns of Consumers**

- Lack of freedom to select channels either on a-la-carte basis or on bouquet basis due to illusory, unrealistic and exorbitantly high prices, thereby discouraging the consumers from choosing them. The same channels along with certain unwanted channels would be offered in a bouquet at extremely low prices. Thus, Consumers were indirectly forced to subscribe unwanted channels and the practice of taking channels on a-la-carte was discouraged. The real objective of addressability that consumers can get channels on a-la-carte basis and pay only for what they wish to subscribe was defeated.
- The consumer was taken for a ride by creating mixed packs of free-to-air channels and pay channels in one bouquet.
- Similarly by adding HD and SD version of same channel in one bouquet an illusory benefit is created, as a customer watches only one version i.e. either SD or HD but would land up paying for both the versions of the same channel.
- Information deficit regarding pricing of the TV Channels.
- No uniformity in the quality-of-service parameters among different platforms.
- Near monopolistic behavior by the existing broadcasters led to restrictive choice of channel to the consumers.

20. However, when asked about the constraints/challenges faced with respect to cable TV regulation in India TRAI, in their written reply they submitted as under:-

—~~N~~ constraints/challenges are being faced with respect to regulation of Cable TV in India.

In January 2004, regulation of Broadcasting and Cable Services came under the ambit of TRAI. Since then, TRAI has notified several Regulations and Tariff Orders from time to time. These Regulations and Orders have enabled

harmonization, transparency, level playing field and growth of the sector. Consumers have also benefitted from these regulations and Orders resulting in effective reduction in tariff and enhanced choice for selection of desired channels”.

21. Further, with respect to the major issues concerning various players of Cable TV industry viz. broadcasters, MSOs, LCOs, consumers etc., TRAI replied that they engage with all the stakeholders on regular basis from time-to-time to identify and address the issues. All the issues identified are duly analyzed for wider impact on the sector. The issues requiring changes in policy/ regulations are also examined in-depth. They follow an elaborate consultation process before issuing any recommendation/ regulations. The issues are submitted by the stakeholders from time-to-time. In addition, TRAI constituted a committee to deliberate on the issues relating to sector in November 2021 comprising of all stakeholders including representatives of MSOs, DTH service providers and Broadcasters. The issues identified by the committee are enumerated in the Record of Discussions. Major issues are listed below:

- a. Revision in the ceiling of Network Capacity Fee (NCF) of Rs 130/-.
- b. In case of multi-TV home, broadcaster 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 pay channels on multiple televisions.
- c. Removal of bundling restrictions, for example, offering of Pay and FTA channels in one bouquet.
- d. The minimum subscription period for a channel by a subscriber should be a month, as the published MRP are per month.
- e. Provide an effective solution to the problem of rampant under reporting. Need to include CAS, SMS & Mux vendors under the ambit of TRAI.
- f. Provision of DPO caused Subscriber Audit as per Regulation 15(1) of Interconnection Regulations 2017 should be scrapped and only Broadcaster Caused Audit as per Interconnection Regulations 2017 should be allowed.
- g. When MSOs form bouquets, they are costlier as compared to bouquets formed by broadcasters as they get channels on a-la-carte price or MRP. Hence, there is no parity in bouquets formed by broadcasters and MSOs. It was suggested that the issue of ‘Re-introduction of Multi Broadcaster Bouquet’ may not be considered.

- h. MSOs should have the power to break the bouquets made by broadcasters and offer combination of such channels to consumers after breaking of bouquets.
- i. De-linking of DRP from MRP. MSOs should be authorized to charge higher price than MRP fixed by the broadcasters.
- j. The extent of discount (45%) permitted to broadcasters while forming bouquets provided should be reduced.
- k. RIOs between broadcasters and MSOs should be standardised. RIOs between DPOs and LCOs are already standardised.
- l. Review of provisions relating to audit and cancellation of licenses of DPO not conducting audit.
- m. Different NCF for different regions/subscribers.
- n. Review of the relation between HD and SD channels.
- o. Removing the concept of itemised bill (i.e. split of NCF, price of pay channels price and GST).
- p. Annual audits should not be mandatory for small MSOs.
- q. Some pay channels in the MSO platform are available free of cost on the free dish, due to this, customers are migrating from the cable connection to the DD free dish. Stakeholders demanded parity in both the platforms.
- r. Lower price on DTH services as compared with MSO services which affects their business. It was stated that in DTH service, the NCF part is very low as compared to NCF charged by the regional MSOs.
- s. Smaller MSOs are not capable enough to comply with requirements such as maintaining website or toll-free number.
- t. Rate of monthly subscription is same in urban as well as in rural areas irrespective of paying capacity of subscribers. In the Covid pandemic situation, the economical divide among Urban and Rural belt was more visible. Different Subscription rates within a Panchayat or Municipal Area may benefit the low-paying subscribers.
- u. There are challenges in strict 'Genre' wise placement of channels, especially with respect to television channels showing multiple language programs.
- v. Current model of revenue share between LCOs and MSOs needs review to ensure viability of LCOs.
- w. Some stakeholders have submitted issues related to content/ regulatory parity with OTT, cross-media ownership and license scrutiny of LCOs.

- x. Increased cost of putting equipment on pole by LCOs due to high charges being levied by local authorities.

22. AllIndia Digital Cable Federation (AIDCF), an association of major Multi-system Operators functioning in India submitted the following concerns related to the Cable industry:-

- (i) Cable TV Industry has lost approximately 45million subscriber base in last 5years i.e. from (110million in 2018 to 65 million in 2023) and, at present, it is witnessing a churn rate of 25% per year.
- (ii) Consumer interest & choice is getting hindered due to Steep Increase (by400%) in satellite channel prices by broadcasters.
- (iii) Broadcasters are exponentially increasing the channel prices by misusing their channel pricing freedom, thereby forcing customers to opt for other internet platforms & Free Dish etc.
- (iv) Approximately 3lakh employees have already lost their livelihood in the last 4years due to the massive reduction in cable TV base.
- (v) Additionally, around 3 lakh work force is on the verge of losing their livelihood in cable TV industry across India, if suitable measures were not taken
- (vi) Out of 1752 licensed MSOs, nearly 1000 MSOs have become non-operational. LCO count has reduced from earlier 2lakhs to 1.5lakhs. (MIB has recently cancelled licenses of 885 MSOs, out of 1000 non-operational MSOs)
- (vii) Industry is facing severe unfair competition from Free Dish and mushrooming OTT content platforms which are providing services almost free and are not regulated by any regulatory framework.
- (viii) 6,000 crore capital investment by MSOs in last 4years has already got wasted: Around 40 million set top boxes deployed by industry has been reduced to waste in the last 4 years @ 1500 Rs per box.
- (ix) The Cable TV industry will get extinct in next 5 years, if this trend continues.

23. According to AIDCF, following key reforms were required for Cable TV for its survival:-

- (i) Restoration of DPOs (MSOs/DTH/HITS/IPTV) right to offer channels by choosing any channel from broadcaster's bouquets, which will reduce consumer subscription price by 20%.
- (ii) Content Parity should be established between Cable TV Platform and other platforms, wherein content must be available to DPOs on non-discriminatory basis
 - a. All the Content provider platforms should be covered under the ambit of Cable TV Act & TRAI regulations.
 - b. Programming code should be amended to include features like —The Shift” and —Parental Control” for Cable TV operators

- (iii) Erroneous demand raised by DOT on multisystem /local cable operators (MSO's/LCO's) to the tune of 6600 Crs. on their cable revenue should be withdrawn.
- (iv) Erroneous GST demands, raised by DGGI, on MSOs regarding GST charges on the LCO's revenues shall be withdrawn.
- (v) If this trend continues the cable industry will get extinct in next 5 year

24. When TRAI was asked about the measures/initiatives taken by them to address the issues concerning various players of Cable TV industry, they replied as under:-

—Inorder to address the critical 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 the basis of this consultation TRAI, on 22nd November 2022, notified the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff (Third Amendment) Order, 2022 and the Telecommunication (Broadcasting and Cable) Services (Addressable Systems) Interconnection Regulations (Third Amendment) Order, 2022. Further, in order to address various issues, TRAI has issued consultation paper titled 'Review of Regulatory Framework for Broadcasting and Cable services' on 23rd August 2023 seeking stakeholders' comments. The comments/ counter-comments are being analyzed by TRAI".

25. Some of the initiatives take by this Ministry of Information and Broadcasting to ensure the growth of cable TV sector are as under:-

(I) **Renewal procedure for Multi-System Operators (MSOs):** The Cable Television Networks Rules, 1994 have been amended to provide streamlined procedures for Multi-System Operator (MSO) registration renewal, extending the period to ten years. This shall ensure the continuity of business for MSOs and services to consumers.

(II) **Last Mile Access to Broadband service providers:** The above amendments include provisions for last mile access for broadband service providers. This aims to enhance internet penetration, encouraging dual-use of infrastructure for cable TV and broadband services. Infrastructure sharing for broadband penetration shall result in additional rental revenues for the Local Cable Operators.

(III) **Regulatory Framework for Platform Services:** Ministry of Information and Broadcasting has issued guidelines on platform services by Multi-System Operators (MSOs) on 30.11.2022. This initiative aims to enhance service quality, expand channel offerings, and encourage bundled packages, optimizing the cable TV and broadband service market. This initiative provides the twin benefits of recognition of PS channels as well as promotion regional content.

(IV) **Sharing of Infrastructure:** The Ministry issued guidelines on infrastructure sharing on 29.12.2021, permitting Multi-System Operators (MSOs) to share infrastructure, including headends and networks, under specific conditions. This shall promote ease of doing business by reducing the need of hefty investments in cable infrastructure.

In addition some of the steps being undertaken to ensure sector's growth are as follows:

(I) **The draft Broadcasting Services (Regulation) Bill, 2023:** A consolidated legislation aimed to create a level-playing field for all broadcasting service providers has been framed by the Ministry and is currently undergoing public consultation.

(II) **Online registration for Local Cable Operators (LCOs):** Currently, LCO registration is done at the local head post office of the area of operations of the LCO through offline/manual process.. The Ministry is developing an online portal for registration of LCOs. This will streamline the registration procedure for LCOs

IV. PRICING POLICY OF CABLE TV AND ROLE OF TRAI

26. Elaborating on the business model, sources of revenue and the size of human resources employed, the Ministry informed as under:-

The predominant business model used in the Indian Cable TV Industry is based on the subscription model. This means that customers are required to pay a subscription fee to access a range of TV channels and programs. This fee is collected by Local Cable Operators (LCOs) or Multi-System Operators (MSOs) who then distribute the revenue generated to various parties as per the terms agreed upon in interconnection agreements. The interconnection agreements are contracts executed between the MSOs, LCOs, and broadcasters. These agreements outline the terms of service delivery, revenue sharing, and other related terms and conditions. The revenue generated from the subscription fees is distributed among the MSOs, LCOs, and broadcasters in accordance with these agreements. The revenue distribution is based on a pre-agreed percentage split, which is typically determined based on various factors such as the number and type of channels offered, the customer base, and other related factors. The revenue share is typically distributed in proportion to the value provided by each party in the delivery of TV services. Some other sources of revenue available with these service providers include value-added services, revenue from advertisements, channel placement fee, hardware installation fee, etc. According to a report by the Federation of Indian Chambers of Commerce and Industry (FICCI), the cable TV industry in India employs approximately 15 lakh people directly and indirectly”.

27. Asked about the perspective of the Ministry with respect to levying of a license fee on the Annualized Gross Revenue associated with Cable TV alongwith the affect of this policy on the industry, they replied as under:-

—Inso far as Multi-System Operators (MSOs) and Local Cable Operators (LCOs) are concerned, there is only one time processing fee of Rs. 1,00,000/- for MSOs and Rs. 500/- for LCOs at the time of registration or renewal of registration. The Ministry has no intention of imposing a license fee that is anyhow related to the Annualized Gross Revenue associated with Cable TV industry”.

28. On the existing pricing policy of Cable TV and the role of TRAI with respect to the same, the Ministry replied that in India, cable TV pricing is regulated by the Telecom Regulatory Authority of India (TRAI) under the framework known as the ‘New Tariff Order’ (NTO). The latest order i.e. NTO 3.0 was introduced in 2022 to bring transparency and flexibility to cable TV pricing for consumers. Under the NTO, the key points of the pricing policy are as follows:-

a. **Channel Pricing:** Channels are categorized into two types:

Free-to-Air (FTA) Channels: These channels are offered to viewers free of charge, and cable operators cannot charge any fee for them.

Pay Channels: These channels are offered on a subscription basis, and viewers need to pay for individual channels or bouquets of channels.

b. **Channel Bouquet Pricing:** Broadcasters and distribution platform operators (DPOs), such as cable and DTH service providers, are required to offer channel bouquets, which are bundles of channels grouped together.

c. **Network Capacity Fee (NCF):** DPOs can charge subscribers a Network Capacity Fee, which is the cost for the basic infrastructure and delivery of channels. This fee is capped by TRAI to ensure affordability.

d. **MRP (Maximum Retail Price):** Each pay channel and bouquet must have an MRP that is set by the broadcaster. Subscribers can select and pay for channels or bouquets based on these MRPs.

29. Regarding the role of Telecom Regulatory Authority of India in pricing policy of Cable TV, the Ministry stated that (TRAI) is responsible for regulating and overseeing the telecommunications and broadcasting sectors in India. Its role includes formulating policies and regulations, ensuring fair competition, protecting consumer interests, setting pricing guidelines, and promoting transparency in telecommunications and cable

TV services. TRAI plays a crucial role in maintaining a healthy and competitive telecommunications and broadcasting ecosystem in the country.

30. When asked about the measures taken by TRAI to control and monitor pricing and tariffs for cable TV subscribers, following was submitted-

—The framework was quite successful in establishing harmonized business processes in the sector, level-playing-field, bringing-in transparency in TV channel pricing, reducing litigations among stakeholders and providing equal opportunities to smaller Multi System Operators (MSOs). However, after a market survey in July-August 2019, the Authority considered it expedient to review some provisions. In order to address the identified issues of 'the Regulatory Framework', the Authority, after due consultation, notified the amendments to the Regulatory Framework 2017, on 1st January 2020. However, some stakeholders challenged provisions of Tariff Amendment Order 2020, Interconnection Amendment Regulations 2020 and QoS Amendment Regulations 2020 in various High Courts including in the Hon'ble High Court of Bombay and Kerala. Hon'ble High Courts upheld the validity of Regulatory framework 2020 except for a few provisions.

The provisions related to Network Capacity fee (NCF), multi-TV homes and long term subscriptions of amended Regulatory framework 2020, were implemented in April/ May 2020. The consumers started benefiting from the provision of a higher number of television channels in basic NCF and also the reduced NCF on second and subsequent television. However, the provisions related to revision of television channels' prices in compliance with the January 2020 amendments could not be implemented due to the legal challenge in Hon'ble High Court of Bombay. The Hon'ble High Court of Bombay upheld the amendment (except one of the provisions related to average price in bouquets) in June 2021. However, the broadcasters filed an appeal in Hon'ble Supreme Court. Hon'ble Supreme Court after due consideration admitted the appeal but did not issue any interim order. Considering that no interim relief was granted by Hon'ble Supreme Court on the judgment of Hon'ble Bombay Court, the Authority issued a letter dated 12th October 2021 to the broadcasters seeking compliance with all the provisions of amended 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 line with amended Regulatory Framework 2020 and also published these on their websites in November 2021.

As per RIOs filed by the broadcasters in November 2021, the new tariffs reflected a common trend i.e., the prices of their most popular channels including sports channels were enhanced beyond Rs. 19/- per month. Immediately after new tariffs were announced by the broadcasters, TRAI received representations from Distribution Platform Operators (DPOs), Associations of Local Cable Operators (LCOs) and Consumer Organisations stating that the new tariffs as announced by broadcasters would cause a huge

increase in consumer payout and will also entail wide scale changes necessitating large scale implementation efforts.

DPOs (including All India Digital Cable Federation) 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 through the informed exercise of options, impacting almost all bouquets, due to upward revision in the rates of pay channels and bouquets. To deliberate on the various issues related to implementation of amended 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. The committee held discussions on 23rd December 2022. Stakeholders listed many issues which in their opinion required review. The Stakeholders' Committee, however, requested TRAI to immediately address critical issues which could remove the impediments for smooth implementation of Tariff Amendment Order 2020. Stakeholders also listed other issues for subsequent consideration by TRAI.

To address the critical issues as identified by stakeholders in Record of Discussion³, a consultation process was undertaken in May 2022. The Authority, after due consultation, notified the amendments, on 22nd November 2022. The amendments have been duly implemented in January/ February 2023. The said amendments dated 22nd November 2022 were challenged by one of the stakeholders in Hon'ble High Court of Kerala. The amendments were upheld by the Hon'ble Court.

As mentioned in Record of Discussions (RoD), the Stakeholders' Committee also listed other issues for subsequent consideration by TRAI. In addition, the Authority held multiple meetings with representatives of broadcasters, MSOs, DTH operators and LCOs. Several issues were put forward during these meetings. In order to address the remaining issues, the Authority, has issued the consultation paper on "Review of Regulatory Framework for Broadcasting and Cable services" on 8th August 2023 seeking stakeholders' comments.

With the Regulatory Framework in place, the DPOs are empowered as they can now sign and send the RIO published by any broadcaster and it is treated as a binding agreement. Broadcasters have been mandated to publish an RIO giving transparent and non-discriminatory terms including discounts (if any) based on measurable parameters. This enables DPOs in getting non-discriminatory deals on a transparent basis, thereby reducing the scope of disputes. Independent source of revenue for DPOs in form of Network Capacity fee brings business certainty and enables investment for upgradation of network.

Consumers are greatly empowered by the Regulatory Framework. A consumer becomes the real decision maker of what she/he views and has complete freedom to choose what he/she wishes to watch and pay only for that. Price of every television channel is clearly visible on the Electronic Program Guide on television. The consumer is not required to pay any subscription fee for an FTA channel if she/ he subscribes to one. The amendments of January 2020 have

increased the number of SD channels from 100 to 200 in the Network Capacity fee (NCF) of maximum Rs. 130/- per month. Now NCF for 2ndTV connection (or subsequent connections) is not more than 40% of declared NCF per additional TV.

For the Broadcasters, the Regulatory Framework provides for a 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. Broadcasters get third party audited information on actual number of subscribers of their channels/ bouquets thereby increasing transparency and revenue assurance. Flexibility has also been provided to broadcasters to offer bouquet of channels for the consumers and prescribe MRP of the same. There is certainty in placement of channel (EPG)".

31. However, according to AIDCF, 30-year-old Cable TV Industry had a Negative 35% growth in 4 years (from 190 Mn to 130 Mn including DTH), while India's GDP is growing 8% p.a. They also submitted that the industry that has 1 lakh self-employed LCOs and 10 lakh people is in dire situation. The Cable and Satellite industry invested over Rs 50,000 Cr. to convert all homes to digital TV and 35% of this investment has gone waste as subscribers can't afford the price hikes. All this was attributed to:-

- a. While TRAI implemented New Tariff Order Regulation 2017, to allow subscribers to pay only for the channels they watch and control their bills, however, with the subsequent amendments in 2020 & 2022, i.e. (NTO 2.0& NTO 3.0), TRAI has given complete forbearance to Broadcasters to price their channels at any level (except for a notional capping at Rs. 19, if the channels are to be included in Bouquet).
- b. The above forbearance is being misused by Broadcasters, as they have significantly increased their Pay TV channel Prices by up to 600% after implementation of New Tariff Order in 2019 and a further hike of up to 200% in some cases after implementation of NTO 3.0, by force bundling all their channels, which is eventually becoming a burden on Pay TV subscriber.
- c. The broadcaster makes bouquet of channels (which include one or two driver channels and about 7-8 unpopular channels) and demands MSOs and DTH players to sell the same bouquet to minimum 90% of the subscriber base without breaking the bouquet. MSO does not get the incentive if 90% of subscribers do not subscribe to the bouquet intact. This means a common man pays for 7-8 unwanted channels which include English channels, sports channels (which have important events only 2-3 months in a year).

32. Further, according to AIDCF, the increase in prices of the channels was as illustrated below:-

Channel name	Price on 31 st Jan 2019	Price on 1 st Feb 2019	% Increase
Vijay TV	Rs 2.25	Rs 17	655%
Zee Marathi	Rs 4.5	Rs 19	322%
Zee Kannada	Rs 4.19	Rs 19	353%
Zee Bangla	Rs 4.55	Rs 19	317%
Zee Café	Rs 4.5	Rs 15	233%
Ten 1	Rs 8.43	Rs.19	125%
KTV	Rs 8.44	Rs 19	125%
Zee Telugu	Rs 5.84	Rs 19	225%
Star Jalsha	Rs 6.3	Rs 19	201%
Gemini TV	Rs5.79	Rs 19	228%
Colors Kannada	Rs 5.84	Rs 19	225%
EV	Rs5.61	Rs 17	202%
Star world	Rs 2.56	Rs.8	212%
Zee Sarthak	Rs4.99	Rs.19	280%
Nick	Rs 3.38	Rs 6	78%

33. AIDCF, in their written submission, also stated that (i) the Cable TV monthly prices for the consumers have significantly increased from Rs. 200-300 in 2017-18 to Rs. 350-450 in 2022-23; (ii) DPOs are forced to sell broadcaster's bouquets and A-la-carte prices of the channel are artificially hiked, so that consumer is also forced to purchase bouquets only. They have also stated that TRAI consultation paper in 2019 have pointed out this, but no action was taken to correct it. Providing reasons for their submission, following were submitted by AIDCF:-

- a. TRAI vide its regulations have created a bias by allowing broadcasters to provide 45% discount on channel prices on formation of bouquets, whereas there is no discounting on ala carte channels. DPOs are forced to sell those bouquets to the customers on as it is basis, wherein the non-popular channels of the broadcasters are also provided to customers. This defeats the very purpose of digitalization.
- b. While a common man wants to watch an entertainment channel costing Rs.19, because of the bouquet, he is forced to pay Rs 50-Rs 60 for a single broadcaster bouquet. For 4 broadcasters, the pay channel price alone is anywhere between Rs 200- Rs300. This is in addition to the Network capacity fee which was reduced by 50% by allowing 200 channels instead of 100 channels for Rs 130.
- c. By allowing bundling of unpopular channels in bouquets and linking the distributor incentives to penetration of bouquets in the regulation by TRAI has increased the subscriber burden as subscribers are forced to pay for unwanted channels.

34. During cross-examination by the Committee, AIDCF submitted as under:

—These are just another couple of examples where we have taken that if a consumer was paying Rs. 250 previously, what has been the impact on him as far as the new regulation goes. If he is taking the broadcaster's bouquets and paying the amount, it is at least a 50 per cent to 55 per cent increase in subscription cost and with a 27 per cent lesser number of channels. This is live data from what we were offering earlier and what we are offering today to the same consumer. It is there on the record. So, a person who was earlier paying Rs. 250 is now paying Rs. 375 for 27 per cent less number of channels”.

35. When asked for the reasons for allowing a 45% discount to broadcasters for the formation of bouquets and about its impact on the market, TRAI responded as under:-

- a. In the Tariff Order 2017, the Authority had prescribed a maximum discount of 15% that a broadcaster could offer while forming its bouquet of pay channels over the sum of MRPs of all the pay channels in that bouquet.
- b. Hon'ble High Court of Madras in its judgement dated 02.03.2018 declared the prescribed limit of 15% on the permissible discount on the sum of the a-la-carte price of constituent channels for a bouquet as ‘arbitrary and unenforceable’.
- c. Hon'ble Supreme court in its judgement dated 30.10.2018 recognized the need for prescribing a cap on the sum of the a-la-carte price of the channels forming part of the bouquet.
- d. TRAI in 2019, analyzed the data submitted by the service providers post implementation of the new regime and observed that some bouquets were being offered at a discount as high as 60% of the sum of a-la-carte rates of pay channels constituting these bouquets.
- e. TRAI in the Tariff Order 2020 prescribed a relationship between sum of a-la-carte price of channels and bouquet prices in form of the twin conditions:
- f. —a) the sum of maximum retail prices per month of the a-la-carte pay channels forming part of a bouquet shall in no case exceed one and half times of the maximum retail price per month of such bouquet; and
- g. (b) the maximum retail price per month of any a-la-carte pay channel, forming part of such a bouquet, shall in no case exceed three times the average maximum retail price per month of a pay channel of that bouquet”
- h. Hon'ble High Court of Judicature at Bombay, vide its Judgement dated 30th June 2021 upheld the validity of Regulatory Framework 2020 and set aside the condition of average test provided as the second condition of the Twin Conditions.
- i. Data provided by broadcasters indicated that the maximum number of bouquets falls under the discount range of 40-50%.
- j. TRAI considered an article, ‘Preference between Individual Products and Bundles: Effects of Complementary, Price, and Discount Level in Portugal’ by Mr. Paulo Martins and others which indicates that in case of discounts upto 20% on bundling, individual products are preferred. However, at a discount level of more than 45%, bundles are preferred over individual products.

36. The Committee sought to know the rationale behind allowing a 15% discount to Distribution Platform Operators (DPOs) in the formation of bouquets and how the ambiguity created by this policy was addressed. Further, they wanted to know the logic behind decision of TRAI to withdraw DPOs' right to form bouquets by breaking broadcasters' bouquets and its implications on consumer choice. At this, TRAI replied as under:-

- (i) In Tariff Order 2017 a maximum discount of 15% while offering its bouquet of channels over the sum of MRP of all the pay channels in that bouquet was permitted to broadcasters as well as DPOs so as to enable customer choice through a-la-carte offering and also prevent skewed a-la-carte and bouquet pricing.
- (ii) Hon'ble High Court of Madras in its judgement dated 02.03.2018 declared the prescribed limit of 15% on the permissible discount for broadcasters on the sum of the a-la-carte price of constituent channels for a bouquet as 'arbitrary and un-enforceable'.
- (iii) TRAI on 8th August 2023 has issued a Consultation Paper on 'Review of Regulatory Framework for Broadcasting and Cable services' and has flagged the issue of 15% discount to Distribution Platform Operators (DPOs) for the formation of bouquets and has sought stakeholders' comments. Based on the stakeholders' comments and further analysis TRAI will take suitable measures to address this issue.
- (iv) In the Regulatory framework prior to 2017, there was no provision allowing DPOs to form bouquets by breaking broadcasters' bouquets.

37. Regarding reasons for prescribing a capping of Rs. 19 for channel pricing inclusion in bouquets instead of the previously set Rs. 12, it was submitted by TRAI as :

- (i) Broadcasters in compliance with the amended Framework 2020 declared MRP of seventy-two (72) television channels above Rs.12/-
- (ii) These 72 seventy-two channels could not be included in a bouquet owing to the amended tariff order clause of cap of Rs. 12/-.
- (iii) Forty-five (45) such television channels belong to the GEC genre. Nineteen (19) such television channels belong to the Sports genre and six (6) television channels belong to the Movies genre. One channel each belongs to News and Miscellaneous Genre.
- (iv) Almost all the DPOs form bouquets/ subscription packages in such a way that every subscriber gets television channels of most of the genres.

- (v) Subscribers who prefer bouquets will not be able to watch these channels and would necessarily be required to choose all such popular channels on a-la-carte basis only.
- (vi) TRAI also undertook an exercise to estimate a Consumer Price Index for Transport and Communication services. A comprehensive application of different indices at the current prescribed price ceiling of Rs 12/- reflects a revised price cap in the range of Rs. 16/- to Rs. 17/-.
- (vii) In case the price-cap is too low more and more channels will not be part of bouquet offerings. In case the price-cap is too high, there may be a tendency to enhance a-la-carte price near to the maximum permissible limit. The regulatory framework should be neutral to the choice of a consumer on selecting channels on a-la-carte basis or in bouquet.
- (viii) The consumers who prefer bouquets, should not be deprived of viewing channels of their choice for not being available in bouquets.
- (ix) In case the ceiling on the MRP of a channel to be part of a bouquet is below reasonable level, then some television channels may not be included in the bouquets at all. Such offerings may result in a change of current plans for a very large section of consumers. Such a situation may entail huge efforts in obtaining revised choices from consumers. Large number of consumers still exercise their choices manually and therefore such consumers may face inconvenience and service blackout owing to non-submission of fresh choices.
- (x) The prevailing market in terms of offerings and availing of consumer choices is reasonably implemented and settled.
- (xi) It was done to balance the interests of service providers (broadcasters and DPOs) and consumers.
- (xii) Further, one of the stakeholders challenged the revision of the prescribed ceiling of television channel price for inclusion in bouquet(s) in Hon'ble High Court of Kerala. The court has upheld the said amendment.

38. On the decision of TRAI to not place a cap on channel pricing based on derived costing methodology for the benefit and protection of consumers, TRAI submitted as under:-

- (i) A channel consists of a number of the programs. The cost of the production of different programs drastically varies based on the actors, setup cost, script, copy rights, and other miscellaneous factors. The various programs in a given channel also frequently change based on their Television Rating Points (TRP), advertisement potential and other ground reports. Hence, determining the cost of production of a channel at all times is an extremely difficult process, perhaps almost impossible.

Moreover, such determination of price would be dynamic in nature and may vary with change in programs in a channel. Programs on television channels change dynamically and as such it is impractical to determine the price of a television channel on cost plus.

- (ii) Defining a ceiling price of television channel may impinge on ability to produce better content, more so for niche category of channels.
- (iii) There can be some channels with unique content for niche category of viewers. Such niche category channel desire freedom for pricing their channel as their target audience segment may be small.
- (iv) Broadcasters should be given business flexibility to monetize their channels.

39. Dwelling on the evolution of the New Tariff Order 2017 and its original objective of empowering consumers to select channels on an a-la-carte basis, TRAI was asked as to why this objective appears to have been discouraged going by deep discounting that was allowed on bouquets to Broadcasters in subsequent amendments. To this, they stated that it was correct that the Regulatory Framework empowered consumers to exercise choice of television channels or bouquets. The objective has been the fulcrum of the Regulatory Framework and remains so even today. Following are the benefits of the Regulatory Framework for Consumers:

- (i) A consumer becomes real decision maker of what she/he views and has complete freedom to choose what he/she wishes to watch and pay only for that. It is mandated that all channels have to be offered on a-la-carte basis and the MRP has to be declared. Same way, the MRP of the Bouquet has to be published.
- (ii) Consumers can subscribe to channels of their choice. Provisions have been made that information regarding FTA and MRP of all pay channels has to be displayed in EPG to enable the consumers to make informed choice. provisions relating to consumer premises equipment / STBs have been simplified and streamlined.
- (iii) It has been mandated that FTA channels can't be clubbed with Pay channels in a Bouquet. Further, HD channels can't be clubbed with the SD version of the same channel, so that the consumer has complete clarity with respect to what is on offer.
- (iv) Consumer is not required to pay any subscription fee for an FTA channel if she/ he subscribes to one.
- (v) Installation and activation charges for a connection have been rationalized.

- (vi) For the purpose of generating consumer awareness and to provide all required information at one place, the provision of consumer corner subscriber corner and consumer care channel has been mandated.

40. While referring to a substantial increase in subscriber prices over the past 4 years i.e. about 70%, TRAI was asked to share the potential remedies or interventions that they were considering to alleviate the issue. To this, they replied as under:-

“The Authority has not observed such large scale increase in consumer prices, in general. Table 1 provides comparison of prices of bouquets offered by some DPOs during last 4 years. It indicates a maximum increase of 20% in the prices whereas the average price increase is approximately 12%. Over the period of four years, this is much less than the inflation indices.

Comparison of DRPs of Bouquets offered by DPOs to consumers				
Name of DPO	Name of Bouquet	DRP of Bouquet		% Variation in DRP
		Sep-19	Sep-23	
DPO1	Bouquet 1	259.2	284.91	9.92
	Bouquet 2	319.55	344.41	7.78
DPO2	Bouquet 3	350	375	7.14
	Bouquet 4	285	325	14.04
DPO3	Bouquet 5	208.14	251	20.59
	Bouquet 6	251.36	273	8.61

Previously, in the year 2019, after six months of the implementation of the Regulatory Framework, TRAI had conducted a survey through an independent agency to assess consumers' view. The survey confirmed that the Regulatory Framework 2017 has been good for different stakeholders including consumers. Some salient findings of the survey are given below:

- (i) Four in every five consumers appreciated transparency in TV channel prices and have confirmed that TV channel prices are clearly visible at the time of selection of TV channels.
- (ii) Approx. 3/4th of the consumers were aware about TRAI's regulatory framework. They appreciated flexibility given to subscribers to choose channels of their choice.
- (iii) More than half of the consumers were happy with the consumer-friendly provisions in the regulatory framework 2017.
- (iv) Prices of those subscribers, who have exercised their choice for selection of TV channels, have reduced.
- (v) In general, the impact on monthly payout by consumer had an average increase of 10%.

Further, TRAI is in process to carry out a Regulatory Impact Assessment of the Regulatory regime in Broadcasting sector. TRAI has issued an Expression of Interest (Eoi) in October 2023 for Empanelment of Agencies to carry out Regulatory Impact Assessment.

TRAI has also issued a consultation paper on —Review of Regulatory Framework for Broadcasting and Cable services” on 8th August 2023 seeking comments of the stakeholders on the issues pertaining to Tariff, Interconnection and QoS”.

41. When TRAI was asked to respond to the discrepancies in pricing policy of channels, as pointed out by AIDCF, during evidence, the representative of TRAI submitted as under:-

Sir, with your permission, I would like to reiterate what was discussed in our previous meeting. Immediately after that meeting, we had sent an email because the ongoing discussion here revolves around the fact that our information is different from theirs. That's why we suggested that they provide us with all those statistics, and then immediately after that, we would sit down with you for a meeting. Following that, our second issue was proceeding separately. On the broadcasting policy, we wanted to consult them. For that, we had scheduled a separate meeting on the 12th. They expressed a preference for the meeting on the 15th instead. We have agreed to their proposal. Today, the committee is discussing a matter, and if we need to move forward on it, we need information from them. Otherwise, I am sorry if I sounded a bit harsh. I request that the information be made available to us. If not, we will continue to say that a 3 percent increase is there, claiming a 300 percent increase. To reconcile, we need information. I humbly request that if the Federation can provide us the information, they can take whatever time they need—whether it's three days later, four days later—we will have a meeting immediately after that. We are not going to sit over those statistics”.

42. Further, when asked about the steps that were taken to resolve the issue of difference in pricing policy, TRAI during evidence submitted as under:

—Immediately after that meeting, we had sent a request to the AIDCF and because the entire issue was about the numbers not matching, we had requested them to provide the numbers. They came back to us that they will like to meet and they did not provide us any numbers to us. Without the numbers, how do we reconcile? We have no problems in accepting it. Whatever numbers are right would finally become the right numbers but somebody has to provide us the numbers...xxx..xxx...xxx.....xxxxxx....

I would like to humbly submit that we are not saying that we do not have the numbers. Sorry, I will be using that word again. Post 2017, some reporting mechanisms came into existence and TRAI does get regular information from the broadcasters and some other stakeholders. Whatever numbers my colleague had presented to you in these slides, they have emanated out of those statistics that comes to us as part of regular reporting. What I was submitting last time was that what we are saying is at variance with the numbers which our friends are mentioning. So, if there are two sets of numbers, we will have to sit down and reconcile

43. The Committee wanted TRAI to explain the rationale behind their approach to linking the penetration of broadcaster's bouquets with the discount provided to DPOs, and investigate whether this approach could create a bias in the regulatory mechanism. In response to this, TRAI stated that it can be seen that the following provisions balances the interest of stakeholders to enable orderly growth of the sector:

- i) The relevant provisions sub-regulations 3 & 4 of regulation 7 of the Telecommunications (Broadcasting & Cable) Services Interconnection (Addressable System) Regulation 2017, as amended from time to time, is as below:

“7. (3) Every broadcaster shall declare a minimum twenty percent of the maximum retail price of pay channel or bouquet of pay channels, as the case may be, as the distribution fee:

Provided that the rate of distribution fee declared by the broadcaster shall be same for pay channel and bouquet of pay channels and shall be uniform across all the distribution platforms.

(4) It shall be permissible to a broadcaster to offer discounts, on the maximum retail price of pay channel or bouquet of pay channels, to distributors of television channels, not exceeding fifteen percent of the maximum retail price:

Provided that the sum of distribution fee declared by a broadcaster under sub-regulation (3) and discounts offered under this sub-regulation in no case shall exceed thirty five percent of the maximum retail price of pay channel or bouquet of pay channels, as the case may be:

.....

Provided also that offer of discounts, if any, to distributors of television channels shall be on the basis of fair, transparent and non-discriminatory terms:

Provided also that the parameters of discounts shall be measurable and computable.”

- ii) The relevant provisions sub-regulations 12 of regulation 10 of the Telecommunications (Broadcasting & Cable) Services Interconnection (Addressable System) Regulation 2017, as amended from time to time, is as below:

10.(12) A broadcaster shall not incorporate any provision, directly or indirectly in its interconnection agreement with a distributor of television channels which requires such distributor of television channels to give a guarantee for a minimum subscriber base or a minimum subscription percentage for the channels offered by the broadcaster and any agreement to contrary shall be void.

Explanation: For removal of doubt, it is clarified that any discount, offered as an incentive by a broadcaster on the maximum retail price of the pay channel or the bouquet of pay channels, based on actual number of subscribers or actual subscription percentage, recorded in a month shall not amount to guarantee for a minimum subscriber base or a minimum subscription percentage for its channel.

- iii) Reasons for sub-regulation 12 of regulation 10 has been mentioned in the para 63 of Explanatory Memorandum of the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017 dated 03/03/2017, which is reproduced below:

63. As far as the issue of prescription of guarantee of a minimum number of subscribers or subscriber base is concerned, the Authority was of the view that for ensuring competitiveness in the market and to remove entry barrier for new entrants, no service provider should be allowed to stipulate a pre condition for guarantee of minimum subscriber base or minimum subscription percentage of its channel(s). However, the Authority was also conscious of the fact that many service providers, in order to promote their channels, may like to provide discounts, within the prescribed limits in non-discriminatory manner, to other service providers on their fulfilling of certain target of the subscriber base or subscription percentage of its channel(s). In such a situation, to ensure the orderly growth of the sector, the Authority was of the view that it would be unfair to prohibit offering of such discounts. However in no case, such prescription should transcend to the denial of signals or discontinuation of signals or a pre-condition for giving the channel”.

44. On the issue of Content Parity and Disparity in Regulations, AIDCF in their written submission stated as under:-:

“4(1) Content Parity

- a. Content delivery through online streaming platforms has expanded by leaps and bounds over the past few years and there will be an estimated 470 million digital video viewers by end of 2023 (*as per the Magnite India Research Report*). The continuous and unrelenting penetration by online streaming has resulted in a huge negative impact on the regulated platforms (**MSOs, DTH and HITS**) offering cable TV services since there is a great disparity in the price as well as quality of content.
- b. **Meanwhile, broadcasters are not providing all the content available with them to the DPOs, which is creating the cable TV platform less attractive in terms of content for the customers.**
- c. **Therefore, for the benefit of Cable TV consumers, we request hon“bb Parliament committee to direct TRAI to mandate broadcasters that:**
 - i. All the Content, which is being made available by the broadcasters on their online streaming platforms, should also be provided to Cable TV Platforms. The Content and price disparity between the cable television and OTT platforms should be completely removed, and Cable TV operators should be enabled to provide OTT like content on their Cable TV platforms.
 - ii. **“Programme code”** shall be suitably amended and Cable TV should also be allowed to provide diverse content freely since MSOs have the capability to put parental control through the digital STBs.
 - iii. As broadcasters are already charging subscription fees for their Pay TV channels from the customers, **no advertisements shall be allowed on any “Pay Channel”.** Therefore, the Honorable Ministry of Information and Broadcasting should amend the “Advertising Code” in this regard accordingly.

4(2) Same Service Different Rules: Regulatory disparity between Cable TV, Free dish & Online Streaming Platforms (OTT applications like Amazon, Netflix, Sonyliv, Hotstar, Zee5 etc.)

- d. Presently, in India, content is distributed via different medium like DPOs (DTH, HITS, IPTV, and MSO), Free Dish and OTT applications. The distribution of Content is a similar service, however the same is regulated differently by the licensing and regulating Authority. The basic differences are highlighted below for Honorable Committee for its kind reference & perusal.

S. No.	Particulars	Cable TV/DTH	Free Dish	OTT Applications
1	Provision of Channels	Linear	Linear	Linear & Non-Linear
2	Regulation by TRAI	Highly Regulated	Not Regulated	Not Regulated
3	Regulated by Cable TV Act/Programming Code	Yes	No	No
4	Uncensored Content restriction	Yes	Yes	No

5	Encryption	Encrypted	No Encryption	Not applicable
6	Mandatory channels DD	Yes. Mandatory	Yes	No
7	Advertisements	Yes	Yes	No
8	Pay Channels	Yes. Pay TV channel are available on Paid basis	Pay Channels are Free here	No concept of Pay Channels
9	Network Capacity Fees (NCF)	Fixed	Nil	Nil
10	Capping on Incentives by Broadcasters.	15%	Channel slots are auctioned	No such capping as Broadcaster are direct distributors
11	Mandatory Sharing of Sports of National Importance	No	Yes	Not applicable

- e. **For a Justifiable and Equal treatment between all the three kinds of Platforms,** OTT and Free Dish shall also be covered under the ambit of TRAI regulations which are applicable on DPOs like MSOs, DTH, IPTV and HITS”.

45. When TRAI was asked to enumerate the measures taken for the revival of the Cable TV industry, and to address regulatory disparities between similar platforms, such as Distribution Platform Operators (DPOs), Free Dish, and OTT content applications, their response was as under:-

–TRAI has given various recommendations to the Government from time to time for an orderly growth of the Cable TV industry in the country. A list of such recommendations is placed at **Annexure-I**.

The regulatory framework 2017 is applicable to all the Distribution Platform Operators (DPOs). The new framework brings clarity and transparency in pricing by separating the network capacity fee and pay channel price. The new framework provides for complete transparency on pay channel pricing structure whereby no distributor can charge above the MRP declared by a broadcaster. The subscriber may choose channels from the distributor either in a-la-carte form or bouquet or combination of both. The MRP declared by the broadcasters are available on the Electronic Program Guide (EPG) of each DPO.

- With regards to DD Free Dish, it is a non-addressable platform governed under the provisions of Prasar Bharati Act 1990.
- TDSAT in para 29 of its judgement dated 15th December 2008 mentioned the following:

it is clear that having obtained an in principle allocation of Frequency (akin to a letter of intent), the Respondent, Prasar Bharati is, by this measure alone, a licensee u/s 4 of the Indian telegraph Act and hence a 'service provider' under the TRAI Act."

- The regulatory framework 2017 is applicable for addressable systems only. However, DD Free dish is a non-addressable platform, therefore provisions of the regulatory framework 2017 are not applicable for it.
- Accordingly, following questions related to DD Free Dish have been asked in the TRAI's consultation paper dated 08th August 2023:
 - a. Should Tariff Order 2017, Interconnection Regulations 2017 and Quality of Service Regulations 2017 be made applicable to non-addressable distribution platforms such as DD Free Dish also?
 - b. 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?
 - c. 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.
- As far as OTT is concerned, TRAI does not regulate OTT services as of now".

46. The Committee sought to know the number of audits conducted by TRAI on Multi System Operators (MSOs) over the past 5 years, and a detailed breakdown of these audits on a yearly basis. TRAI submitted as under:-

- i) TRAI itself does not conduct audits of Multi System Operators (MSOs).
- ii) Provisions of Interconnection Regulation 2017 (as amended)
 - a. Sub-regulation 7 of regulation 10 and Regulation 15 of the Interconnection Regulation prescribes the provisions regarding audits of system of DPOs by the DPOs and/or by the Broadcasters.
 - b. Sub-regulation 7 of regulation 10 is, *inter-alia*, reproduced as under:

(7) *If a broadcaster, before providing signals of television channels, is of the opinion that the addressable system, being used by the distributor for distribution of television channels, does not meet the requirements specified in the Schedule III or the Schedule X or both, as the case may be, it may, without prejudice to the time limit specified in sub-regulation (2)*

of the regulation 3, cause audit of the addressable system of the distributor by M/s. Broadcast Engineering Consultants India Limited, or any other auditor empanelled by the Authority for conducting such audit and provide a copy of the report prepared by the auditor to the distributor:

Provided that unless the configuration or the version of the addressable system of the distributor has been changed after issuance of the report by the auditor, the broadcaster, before providing signals of television channel shall not cause audit of the addressable system of the distributor if the addressable system of such distributor has been audited during the last one year by M/s. Broadcast Engineering Consultants India Limited, or any other auditor empanelled by the Authority and the distributor produces a copy of such report as a proof of conformance to the requirements specified in the Schedule III or the Schedule X or both, as the case may be.

c. The regulation 15 is, inter-alia, reproduced as under:

15. Audit.— (1) Every distributor of television channels shall, once in a calendar year, cause audit of its subscriber management system, conditional access system and other related systems by an auditor to verify that the monthly subscription reports made available by the distributor to the broadcasters are complete, true and correct, and issue an audit report to this effect to each broadcaster with whom it has entered into an interconnection agreement:

Provided that the Authority may empanel auditors for the purpose of such audit and it shall be mandatory for every distributor of television channels to cause audit, under this sub-regulation, from M/s Broadcast Engineering Consultants India limited, or any of such empanelled auditors;

Provided further that any variation, due to audit, resulting in less than zero point five percent of the billed amount shall not require any revision of the invoices already issued and paid.

(1A) If any distributor fails to cause audit once in a calendar year of its subscriber management system, conditional access system and other related systems, as specified under sub-regulation (1), it shall, without prejudice to the terms and conditions of its license or permission or registration, or the Act or rules or regulations or order made or direction issued there under, be liable to pay, by way of financial disincentive, an amount of rupees one thousand per day for default up to thirty days beyond the due date and an additional amount of rupees two thousand per day in case the default continues beyond thirty days from the due date, as the Authority may, by order, direct:

Provided that the financial disincentive levied by the Authority under this sub-regulation shall in no case exceed rupees two lakhs:

Provided further that no order for payment of any amount by way of financial disincentive shall be made by the Authority unless the distributor, has been given a reasonable opportunity of representation against the contravention of the regulations observed by the Authority.

(2) In cases, where a broadcaster is not satisfied with the audit report received under sub-regulation (1) or, if in the opinion of a broadcaster the addressable system being used by the distributor does not meet requirements specified in the Schedule III or the Schedule X or both, as the case may be, it shall be permissible to the broadcaster, after communicating the reasons in writing to the distributor, to audit the subscriber management system, conditional access system and other related systems of the distributor of television channels, not more than once in a calendar year:

Provided that the Authority may empanel auditors for the purpose of such audit and it shall be mandatory for every broadcaster to cause audit, under this sub-regulation, from M/s Broadcast Engineering Consultants India limited, or any of such empanelled auditors:

Provided further that if such audit reveals that additional amount is payable to the broadcaster, the distributor shall pay such amount, along with the interest at the rate specified by the broadcaster in the interconnection agreement, within ten days and if such amount including interest due for any period exceed the amount reported by the distributor to be due for such period by two percent or more, the distributor shall bear the audit expenses, and take necessary actions to avoid occurrence of such errors in the future:

Provided also that it shall be permissible to the broadcaster to disconnect signals of television channels, after giving written notice of three weeks to the distributor, if such audit reveals that the addressable system being used by the distributor does not meet the requirements specified in the Schedule III or the Schedule X or both, as the case may be”.

- d. As per monthly reports received from empanelled auditors and BECIL, calendar year wise statistics of DAS audits undertaken under the provisions of Interconnection regulation is as under:

Category	Number of DAS audits in Calendar year 2019	Number of DAS audits in Calendar year 2020	Number of DAS audits in Calendar year 2021	Number of DAS audits in Calendar year 2022	Number of DAS audits in Calendar year 2023 (Jan23-Oct 23)
DPO-caused Audits	30	171	316	409	264
Broadcaster-caused Audits	57	187	161	367	297

Total number of DAS Audits	87	358	477	776	561
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e. Audits in the Broadcasting and cable TV sector are necessary to maintain regulatory compliance, ensure quality standards, promote fair competition, protect consumer interests, and uphold financial transparency. They serve as a mechanism to uphold standards and accountability within this dynamic and influential industry. TRAI has taken a number of initiatives to improve compliance by the DPOs including issue of show cause notices, levying financial disincentives, writing to MIB for taking suitable action against erring DPOs”.

V. Issues related to Adjusted Gross Revenue Demand:

47. Regarding the AGR Demand, AIDCF submitted are as under:-

With respect to AGR Demand:

- a. DOT has raised wrongful demand to the tune of Rs.7,000 Crore on Cable TV operators /MSOs by computing license fee on their Cable TV revenues (which do not come under the ISP license as MSOs operate under registration from Ministry of Information and Broadcasting), while license fee on the pure internet services itself was exempt under DOT License.
- b. Several MSOs received the demand retrospectively with huge penalty and interest on Penalty based on wrong interpretation of the Hon'ble Supreme Court order delivered on 24.10.2019, in *Union of India v. Association of Unified Telecom Service Providers of India*, (2020) 3 SCC 525 (hereinafter referred to as **-AGR Judgment**) in which MSOs are not at all parties and the ISP license /Unified License under which they operate is different from UASL license. The amounts are so large that the MSOs will be pushed to bankruptcy.
- c. The core business of **MSOs is providing Digital Cable Services** while broadband services was a small percentage initially which has been growing of late - especially after COVID Pandemic.
- d. On 17.02.2021, Ministry of Information and Broadcasting (MIB) addressed an Office Memorandum to the Secretary, Department of Telecommunication (DoT) seeking withdrawal of demands of license fee made by DoT on revenue from MSOs and informed DoT that MIB grants permission to MSO for cable television network operations and does not levy any license fee on the revenue. Therefore, the revenue earned by MSOs may not be clubbed with the revenue earned by them under ISP license for computation of license fee. It further stated that operations of both the services, i.e., broadcasting and ISP work on

- different guidelines issued by the concerned Ministries, therefore, these two services need to be considered differently for computation of license fee.
- e. DOT vide its amendment dated 27th May 2022 has itself specifically clarified that, the revenue from cable TV operations will be exempted for computing AGR prospectively, which categorically clarifies that Cable TV revenues cannot be computed for the calculation of AGR.
- f. The demands are erroneous for the following reasons:
- i. **The demands raised by the DoT are unsustainable because the ISP licenses issued to MSOs are different from the UAS License** considered by the Hon'ble Supreme Court in the AGR Judgment. In 1999, UAS license holders requested the Government for a migration package from Fixed license fee to license fee as a revenue share as they were not able to pay huge, fixed fee. MSOs are not covered by such a migration package. MSOs were never in the actual business of providing mobile services to the public like the parties before the Hon'ble Supreme Court.
 - ii. **Two businesses - cable TV and Internet Services - are under two different ministries, i.e., Ministry of Information and Broadcasting and Department of Telecommunication, respectively and under different licenses.**
 - iii. The Unified License under Condition 2, i.e., Scope of License, sub-condition 2.2 (iv) in Chapter I clearly provides that the **Licensee shall not provide broadcasting services under the Unified License, for which a separate License/registration is required as per Cable TV Networks (Regulation) Act 1955.**
 - iv. **The definition of Gross Revenue (GR) & AGR under the Unified Access Service Licenses (UASL) is materially different from the definition of GR & AGR under the ISP Licenses.**
 - v. By Order dated **11.06.2020** passed by the Hon'ble Supreme Court in SMC (C) No. 1 of 2020 recorded that:

“It is apparent that the licenses are different and our judgement in this case could not have been made the basis for raising the demand against Public Sector Undertakings. Even otherwise, the Public Sector Undertakings are not in the actual business of providing mobile services to the general public.”
 - vi. By a subsequent order dated **18.06.2020**, it was recorded by the Hon'ble Supreme Court that **DoT had decided to withdraw demands on PSUs constituting 96% of the demand.**
 - vii. Hon'ble Supreme Court, vide its order dated **01.09.2020**, while deciding the plea of the DoT for extension of time to the TSPs to

pay the dues arising from the AGR judgment, reiterated that the non-telecom PSUs were not in the business of providing mobile services to the public and that they are holding Access Service License.

- g. Like these PSUs, MSOs also do not provide mobile services to public, and our cable TV revenues are not governed by ISP license. Therefore, we humbly request that these erroneous retrospective demands raised by DOT on MSOs on Cable TV revenues are withdrawn. If not withdrawn, the demands will push several MSOs into insolvency for no fault of theirs and this Parliamentary Standing Committee is humbly requested to intervene immediately and save the MSOs from bankruptcy.

48. When the DoT were asked to provide a detailed account of the demands for license fees raised by the DoT on Multi System Operators (MSOs) for simultaneously offering internet services under Internet service provider licenses and the reasons for the demands, they have submitted as under:-

—Department of Telecommunications grants licenses under section 4 of Indian Telegraph Act 1885 to offer various telecommunication services including Internet services. Any company which proposes to offer internet services is required to obtain the Internet Service provider license granted by DoT.

I. License agreement conditions:

a. The License agreement of DoT prescribes that license fees is to be paid based on Gross revenue of the licensee entity. Revenue earned from telecom operations and revenue from all non-licensed activities are included during calculation of license fee. Presently license fee is charged at 8 % of Adjusted Gross Revenue (AGR) of the licensee entity.

b. Licensees are required to make payment of license fee every quarter on self-assessment basis by declaring their revenue in format specified in license agreement. At the end of the financial year licensees are also required to submit their Quarterly audited statement of revenue, annual audited accounts and Reconciliation Statement duly certified by Statutory auditors for difference between figures appearing in quarterly statements of Revenue and Annual audited accounts. In case of any difference between the total revenue in the quarterly statements and Profit & Loss account of the licensee entity the same is added back and license fee demands are raised by DoT annually.

c. Adjusted Gross Revenue is calculated as below:

Period	Method of Calculation
Prior to 01.10.2021	Gross Revenue-Deductions = Adjusted Gross Revenue (AGR).
From 01.10.2021 (License conditions amended as part of Telecom reforms 2021)	Gross Revenue (GR) – Exemptions* = Applicable Gross Revenue (ApGR) ApGR- Deductions = AGR * Exemptions include Revenue from non-telecom operations, Revenue from operations under I&B license, Receipts from Universal Service Obligation Fund (USOF) and other items of other income specified by DoT.

Deductions have been well established and defined in each license authorisation in the license agreement.

II. Judgements by Hon'ble Supreme Court on AGR issues:

a. The matter of definition of Gross Revenue in license agreement was litigated by different licensees including internet service providers from 2003 in Hon'ble TDSAT and Hon'ble Supreme Court. Hon'ble Supreme Court has upheld the inclusion of Revenue from both telecom operations and non-telecom operations for calculation of license fee in following judgements.

- i. Judgement dated 11.10.2011 in CA 5059 of 2007.
- ii. Judgement dated 24.10.19 in CA 6328-6399 of 2015 .

b. Brief of the judgments are provided below

CA 5059 of 2007 :

i. Hon'ble Supreme Court in its order dated 11.10.2011 in CA 5059 of 2007 set aside the Hon'ble TDSAT order dated 07.07.2006 which held that revenue realized by the licensee from activities beyond the license will be excluded from Adjusted Gross Revenue . It also held that TDSAT had no jurisdiction to decide on the validity of the terms and conditions of the license including the definition of Adjusted Gross Revenue incorporated in the license agreement.

ii. In para 34 of the above judgment Hon'ble SC also observed that *–# the wide definition of Adjusted Gross Revenue so as to include Revenue beyond the license was in any way going to affect the licensee, it was open for the licensee not to undertake activities for which they do not require license under clause 4 of the telegraph act and transfer these activities to any other person or firm or company”*.

iii. Further Hon'ble Supreme Court mentioned that it did not go into the specifics of the DoT's demands but empowered Hon'ble TDSAT to look into the legality of demands within the purview of the license agreement.

CA 6328-6399/2015 :

i. Hon'ble Supreme Court delivered the final judgement on 24.10.2019 in CA 6328-6299/2015 wherein the appeals filed by DoT against Hon'ble TDSAT orders on AGR matter were allowed. Hon'ble Supreme Court reiterated its earlier stand taken in CA 5059/2007 and also gave its findings against individual items of Revenue which were disputed by licensees. The court held that Revenue earned from telecom operations and Revenue from all non-licensed activities are to be included during calculation of license fee.

Demands of DoT :

Demands are raised by DoT based on terms and conditions of the license agreement entered between the licensee and DoT. The terms and conditions of license agreement have been upheld by the Hon'ble Supreme Court also as stated above. The licensees were already aware, as to the benefits and corresponding liabilities associated while providing internet services under the licenses, before executing the license agreement with DoT.

IV. Telecom Reforms 2021:

In September 2021 as part of Telecom Reforms 2021 DoT has excluded Revenue from activities earned under licenses issued by Ministry of Information and Broadcasting from calculation of AGR. This is applicable prospectively from 01.10.2021.

V. Present litigation on the matter:

After the judgement of Hon'ble Supreme Court in AGR matter multiple petitions have been filed by telecom licensees in TDSAT seeking the exclusion of revenue earned under the License granted by Ministry of Information and Broadcasting from computation of Adjusted Gross Revenue for the purpose of calculation of License Fee by DoT. All India Digital Cable Federation (AIDCF) also has got itself impleaded in petition TP 54/2020 filed by M/s Asianet Satellite Communications limited. The matter is still subjudice and next hearing of the case is on 23.01.2024".

49. To a specific query by the Committee regarding explicit definition and clarification of what was categorized as "miscellaneous revenue" DoT replied as under:-

In addition to what has already been explained in earlier paras it is submitted that revenue from all non telecom activities will be considered as miscellaneous revenue. License agreement provides for a format of Statement of Revenue and the same is submitted by the licensee duly certified by the statutory auditor. The format provides a breakup of revenue earned from different services offered under the license and certain other items like income from investments etc. The format also provides a column to declare miscellaneous revenue”.

50. On the rationale behind the inclusion of Cable TV revenues in the computation of license fees for Multi System Operators (MSOs) holding Internet service provider licenses issued by the Department, DoT has replied as under:-

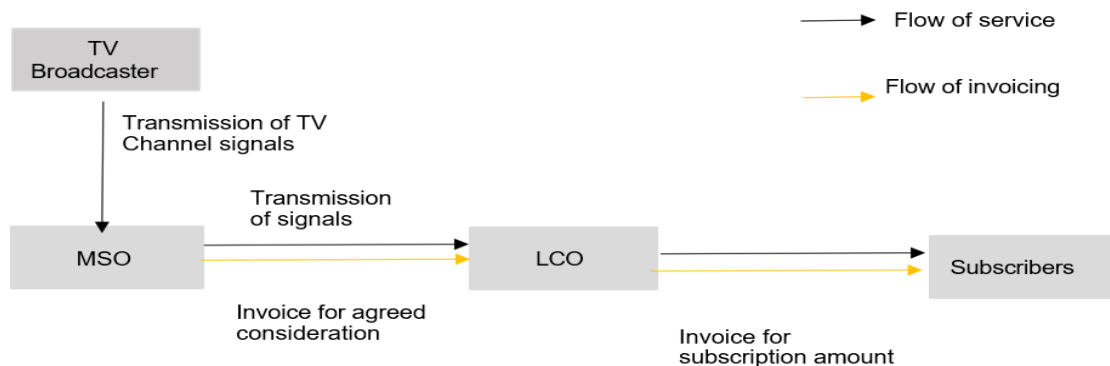
License fee computation is done as per license agreement signed by the companies with DoT. Revenue earned from telecom operations and revenue from all non-licensed activities of the company are included during calculation of license fee. Prior to 01.10.2021, there were no provisions available in the license agreement to exclude Revenue from cable TV in the computation of license fees and hence demands have been raised accordingly”.

51. With respect to GST demand, AIDCF has submitted the following:

- a. DGGI authorities across various states have started investigations and issued show cause notice on the MSOs, for the GST liability on the revenues accrued to LCOs from their subscribers.
- b. MSOs are cable operators who receive programming service from broadcasters and further provide the same or transmit their own programming service for simultaneous reception by the Local Cable Operators (LCOs) or to the subscribers directly.
- c. Local Cable Operator (LCOs) means is a person registered under Rule 5 of Cable Television Network Rules, 1994 and provides last mile connectivity to the end customers. LCOs re-transmit the signals received from MSO to its subscribers through its own fibre/ coaxial cables and own infrastructure with various value-additions.
- d. Members of the federation are currently receiving notices for investigation from DGGI Authorities on the basis of interpretation that LCO is not a service provider and MSOs are providing services to subscribers. Given the same, MSOs are required to discharge GST on the gross amounts collected by LCOs from subscribers.
- e. This is in violation of the circulars issued by Ministry of Finance -F No.B.11/1/2002-TRU dated 1.8.2002 (-2002 circular”) which states that the Service Tax is liable to

be paid by the cable operator providing service to ultimate subscriber of cable service.

- f. As per another circular 80/2004 dated 17.9.2004(-2004 circular”), the services provided by the MSOs to the cable operators have been made taxable.
- g. These two circulars have been followed by industry for the past 20 years. Now, violating the same circulars, the DGCI is raising demands on MSOs for amounts billed and collected by the LCOs from subscribers.
- h. For provision of cable TV services, under Interconnection regulations prescribed by the Ministry of Broadcasting (‘MIB’), two types of contracts or agreements can be entered into between MSO and LCO namely, Standard Interconnection Agreement (‘SIA’) and Model Interconnection Agreement (‘MIA’). Both MIA and SIA prescribe the relationship between MSO and LCO as Principal to Principal.
- i. MSOs and LCOs have the option to sign either a MIA by deciding roles and responsibilities of each of the parties mutually for the purpose of provisioning of cable TV services to subscribers. In case the same cannot be arrived at, parties (MSOs and LCOs) are then bound to sign SIA. However, practically on ground, only MIA is prevalent between MSOs and LCOs, as they mutually agree the terms.
- j. Herein, it is important to mention that MIA is the preferred and prevailing model for both LCOs and MSOs in the industry. In other words, LCOs raise their invoices on subscribers towards provision of their own cable TV services while MSOs raise invoice on LCOs for its own services. Mechanics of the MIA model is depicted with the help of following diagrammatic representation for ease of **reference**:



- k. However, the MO Circular dated 02/2019 has been issued based on incorrect facts related to the operation of business, namely:
 - That only MSOs, and not LCOs can provide service to a subscriber (which is against the definition of Service Provider under TRAI Regulations which includes LCOs also.)
 - That MSO provides services to subscribers directly through Set Top Box (STB). Subscriber Management System (SMS) of MSO maintains details of subscribers and channels/ packages subscribed.
 - That LCO is not a service provider and MSOs are providing services to subscribers directly and they are required to discharge Service Tax /

GST on the gross amounts collected by the LCOs from the subscribers and not on the amounts charged by MSOs to the LCOs.

- I. Further, we would also like to highlight the recent judgement pronounced by the Hon'ble Supreme Court in a similar set of facts in the case of *M/s Hathway Sukhamrit Cable and Datacom (P) Ltd.* In the said case, Hon'ble Supreme Court dismissed the Appeal filed by the department against the Order of CESTAT in favor the Appellant. Key findings of the CESTAT upheld by the Hon'ble Supreme Court has been summarized below:
 - LCO received signals from MSOs and ultimate consumers/subscribers received signals from LCOs.
 - Service recipient for MSO is the LCO and for LCO it is the ultimate subscribers; and
 - Although access to broadcast through set top boxes was provided by MSO but interface between ultimate consumers and cable signals remained with LCOs only
- m. Though the above ruling was in the context of the Service Tax era, we wish to bring to your kind notice that the facts in the above case decided by Hon'ble Supreme Court are identical and directly applicable to the members of AIDCF.
- n. In the light of the above, there is an urgent need for issuance of a clarification stating that LCOs are liable to discharge applicable Service Tax/GST liability for the payments received by them from subscribers for the cable TV services and not MSO, which will also be in alignment with the intent of 2002 circular. MSOs are liable to discharge applicable Service Tax/GST only on the invoice value raised on LCO for services provided to LCO which will be in alignment with 2004 circular.
- o. We therefore request Hon'ble Parliament committee to direct Hon'ble Ministry of Finance to fairly resolve the issues and withdraw the 02/2019 DGGI circular”.

VI. ISSUE OF EMPLOYMENT

52. When asked to provide the data related to number of job losses that have occurred in the past 5 years due to the declining subscriber base in the Cable TV industry, the Ministry has submitted as under:-

—The employment landscape in the cable TV sector is predominantly informal and lacks a standardized record-keeping and reporting system. Unlike industries with a higher prevalence of contract-based employment, the cable TV industry often engages a significant portion of its workforce on an informal basis, making it challenging to compile specific data on job losses attributed to the declining subscriber base. However, the associations of MSOs and LCOs have claimed sustained reduction in the workforce in the industry over the last 5 years”.

VII. IMPACT OF OTT PLATFORMS ON CABLE TV

53. When asked for the impact of OTT platforms on the popularity and sustainability of cable TV, the Ministry replied as under:-

—The emergence of Over-The-Top (OTT) platforms has brought about significant transformations in India's cable TV industry, impacting both regulatory frameworks and market dynamics. While cable TV is governed by established regulations such as the Cable Television Networks (Regulation) Act, 1995, and the Telecom Regulatory Authority of India (TRAI) Act, 1997, OTT platforms have largely operated outside of these regulations, falling under the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021. Content regulation differs as well, with cable TV subject to the Programme Code and Advertisement Code, while OTT platforms face ongoing controversy over their content regulation under the 2021 Information Technology Rules due to concerns about objectionable material. Additionally, OTT platforms offer cost-effective access, on-demand content, and flexibility, potentially eroding the market share of traditional cable TV services. The entry of global players into the Indian market intensifies competition, as they can invest significantly in content creation and distribution, posing a substantial challenge to cable TV operators”.

54. Elaborating the strategies that were being implemented by the Ministry to ensure content parity between OTT applications, Cable TV, and DTH subscribers, the Ministry has submitted as under:-

—Content provided on linear broadcasting (Cable TV, and DTH subscribers) and on-demand platforms like OTT is treated differently owing to the expressed consent and desire of consumers exercised while accessing the on-demand platforms. However, the Ministry of Information and Broadcasting has prepared the draft Broadcasting Services (Regulation) Bill, 2023 which attempts to bring on-demand platforms like OTT also under its preview. A single legislation and apex self-regulation body named Broadcast Advisory Council (BAC) are expected to bring the reasonable parity on content while respecting the differences in the nature of broadcasting”.

55. Asked whether the Ministry has implemented any measures to bring OTT application services within the scope of the Cable Television Networks Regulation Act, 1995, and The Cable Television Networks Rules, 1994, or other content regulations, the Ministry replied as under:-

—The Ministry of Information and Broadcasting has prepared the draft Broadcasting Services (Regulation) Bill, 2023 which shall act as the umbrella legislation for all broadcasting services. The Bill aims to cover online curated content (for example OTT) and publisher of news under its ambit. The draft Bill has been placed in public domain on 10.11.2023 for inviting comments from

stakeholders/General Public. Time upto 09.12.2023 has been granted to provide comments on the draft Bill”.

56. Submitting the plans to establish regulatory control over tariff structures for OTT application services the Ministry has stated as under:-

—Tariff for broadcasting services and cable services at present is regulated through the TRAI Act, 1997. OTT application services have not been notified as Telecommunication services and no such proposal is under consideration in the Ministry. OTT is an on-demand service where expressed consent and discretion is received from the subscribers/consumers. Also, OTT services are not dependent on any specific intermediary network to reach the consumers unlike the other broadcasting services where a synergy on interconnection and quality and consequently revenue sharing i.e. Tariff is needed”.

57. According to the Ministry, the second decade of the twenty first century saw significant development in the cable TV industry. While digitization by and large revolutionized the consumer experience and quality of service wholly, few anomalies such as piracy of content have followed. The piracy at local level, being primarily dealt under the provisions of the Copyright Act, 1957 has been found challenging to address. Nevertheless, the Ministry of Information and Broadcasting has taken crucial steps to check piracy at local level, including inspection by Authorized Officer and confiscation of equipment found violative of the provisions of the Cable Television Networks (Regulation) Act, 1995.

58. Asked to elaborate on the efforts of the Ministry to combat ‘Content Piracy’ and provide statistics regarding the number of resolved piracy incidents in the past 5 years, the reply was :

—The Ministry has prescribed Programme Code which prohibits the carrying of content without necessary copyrights. The violation of this provision may result into monetary penalty and even cancellation/suspension of registration. These are in addition to the provisions of the Copyright Act of 1957, a key legislative framework in India aimed at protecting the intellectual property rights of creators, including those in the realm of content such as literature, music, films, and other artistic works.

In case of cable operators, violation of copyright provisions may lead to seizure and confiscation of the equipments under the CTN Act, 1995. There is requirement of mandatory audit by the DPOs so that subscriber base is properly reported to the broadcasters. Recently, more than 700 MSO registrations have been cancelled due to violation of this provision”.

VIII. ISSUES AFTER DIGITIZATION AND MEASURES TAKEN

59. The Cable Television Networks (Regulation) Act, 1995 formalized the cable TV sector in India. Since then, the Pay TV segment served through the cable networks has seen phenomenal growth in every nook and corner of the country. The launch of more and more satellite TV channels and diversity of content triggered a phenomenal growth in cable TV networks across the country. However, initially all the cable TV networks were analog which resulted in operational challenges for Cable Operators as their network could not cater to higher number of television channels and quality issues. On the other hand, digital cable TV networks have advantage of better quality and enables availability of large number of channels to consumers. Looking at the advantages of digital cable TV networks, TRAI, on 5th August 2010, gave its recommendations to the Government for implementation of Digital Addressable Cable TV Systems (DAS) across the country. The Government accepted recommendations of TRAI and amended the Cable Television Networks Rules, 1994 on 28th April 2012 mandating implementation of Digital Addressable Cable TV Systems by MSOs across the country.

60. The Cable Television in the country was completely digitized since 31.03.2017. During the implementation of the digitization process between 2012 to 2015, TRAI received several representations from various stakeholders regarding the inadequacies of the existing regime to tackle the problems being faced in digitization process leading to non-optimal realization of the benefits of addressability which *inter-alia* includes:

- a. protecting the interests of consumer by giving them a choice to select a channel that he/she wishes to watch and pay only for that;
- b. provisioning of channels by broadcasters to DPOs on a transparent and non-discriminatory manner;
- c. ensuring level playing field within broadcasters and within DPOs;
- d. ensuring access of distribution networks to broadcasters on non-discriminatory terms;
- e. orderly growth of the sector and laying roadmap for future.

61. TRAI in their background note, informed that similar problems were highlighted in the Noida Software Technology Park Ltd. v. Media Pro Enterprise India Pvt. Ltd., Petition No. 295 (C) of 2014 (NSTPL Case) by the Hon'ble TDSAT. They also informed that in the said matter, the Hon'ble Tribunal was pleased to direct TRAI to carry out a

comprehensive review of the existing Regulations and Tariff Order so as to frame a comprehensive code for the era of complete digitization and addressability.

62. According to TRAI, in the digitalization era of complete addressability which was sought to be completed between 2012 and 2017, a lot of implementation issues and real concerns of the stakeholders and consumers emerged. They also submitted the following:

—It was felt that a comprehensive review of the Regulatory regime must be undertaken to frame a comprehensive code for the Broadcasting Sector, so as to ensure that the consumer gets the benefit of a meaningful and informed choice and the inter-se relationship between the Broadcasters and Distributors is based on the principles of non-discrimination and transparency.

Under the then regulatory regime, there were many issues, as regards the service offering and transparency. An RIO model for pricing of TV channels existed, wherein the broadcaster would declare the RIO price of TV channel. Broadcasters used to offer huge discounts ranging upto 80-85% on RIO prices, in case the DPOs agreed to their terms and conditions which included forcing all channels of the broadcaster and its associates to the consumers. If a DPO did not agree to such terms and conditions of broadcasters, then DPO would be forced to buy the channels on RIO prices (exorbitantly high) from the broadcaster. DPO would then sell the channel to the consumer at a retail price which was decided by DPO. The flexibility given to the DPOs to fix retail price had also been misused. In some cases, it was found that the DPOs would charge Rs. 10/- from consumers for a Free-to-Air (FTA) channel. TRAI noted that in several cases the price of FTA channels notified to subscribers was higher than the prices of some of the pay channels. The provisions of the previous regulatory framework, were being misused both by broadcasters and DPOs and the consumer offerings were distorted as the whole pricing structure was irrational and non-transparent for the consumers”.

63. Further, according to the Ministry, monitoring cable operators has become increasingly challenging since the digitization of cable TV networks. Post digitization, the revenue share between broadcasters and cable operators is dependent on the exact number of subscribers which itself depends upon the adherence to TRAI regulations related to Audit. Although, it falls under the purview of TRAI regulation, the Ministry has stepped in and classified the MSOs failing to get their systems Audited as per the TRAI regulations as —non-compliant”, thus making them unable to enter into fresh interconnection agreements until and unless requirement of Audit is fulfilled.

IX. GRIEVANCE REDRESSAL MECHANISM

64. The Cable Television Networks (Regulation) Act, 1995 addresses grievances and complaints related to contents through a three-level structure: self-regulation by broadcasters, self-regulating bodies, and oversight by the Central Government. The Cable Television Networks (Amendment) Rules, 2021, further institutionalizes a statutory mechanism for redressal.

65. According to the Ministry, with respect to the consumers' complaints against cable operators, a robust mechanism i.e. CPGRAMS portal is in place. The portal has been updated keeping in mind the exclusive need of consumers in relation to cable TV networks. The portal has stakeholders like TRAI, State Authorities (Authorized Officer and State Police Authorities) etc. to whom the complaints against cable operators can be forwarded to in no time. Moreover, a dedicated portal for complaints related to channel pricing, bouquet-related issues, quality-related issues etc. is being operated by TRAI. As regard consumer complaints regarding content, the Cable Television Networks Rules, 1994 were amended on 17th June, 2021 to provide a statutory mechanism for redressal of grievances/ complaints of citizens relating to content broadcast by television channels. These Rules provide that in order to ensure observance and adherence to the Programme Code and Advertisement Code specified under the Cable Television Networks Rules, 1994, there shall be a 3-level structure as under:

- Level I- A self-regulation by broadcaster.
- Level II- Self- Regulation by the self-regulating bodies of the broadcasters; and
- Level III- Oversight mechanism by the Central Government.

Part – II

RECOMMENDATIONS/OBSERVATIONS

I. INTRODUCTION

1. The Committee note that the cable TV industry in India has been an integral part of the Media and Entertainment (M&E) sector and forms the backbone of the Broadcasting distribution industry which has played a significant role in the growth of the electronic media sector. With the growth in digital media, advancement in technology, and with the advent of OTT platforms, the cable TV subscriber base has witnessed a decline. The Committee note that as on September 2023, there are 915 Private Satellite TV Channels permitted by the Ministry of Information and Broadcasting (MIB) which include 361 Pay Channels (257 SD Pay Channels and 104 HD Pay Channels) and 543 Free-to-Air (FTA) Channels and there are approximately 332 Broadcasters (including 42 Pay Broadcasters and 290 FTA Broadcasters). The Committee have been informed that there are 998 Multi-System Operators (MSOs) registered with the MIB and there are 81706 Cable Operators. The Committee have also been informed that there are 64.18 million total active Direct-to-Home (DTH) Subscribers, 0.58 million Internet Protocol Television (IPTV) Subscribers, 64 million Cable TV Households, 2 million Headend-In-The-Sky (HITS) Subscribers, 50 million DD Free Dish households in the country. During the year 2022, the TV Revenue was Rs. 70,900 crore and out of that Rs. 39,200 crore was the subscription revenue and Rs. 31,800 crore was the Advertisement Revenue.

With respect to TV service value chain, the Committee note that the Broadcasting and Cable sector comprises of Broadcasters, Distribution Platform Operators (DPOs), and Local Cable Operators (LCOs) to provide satellite television services to the consumers and the Broadcaster is responsible for uplinking the signals of their television channel to a satellite in an encrypted form. The distributor then receives these signals from the satellite and decodes them using the decoder provided by the Broadcaster. The distributor is typically a company such as a Multiple System Operator (MSO), a Direct-to-Home (DTH)

operator, a Headend-In-The-Sky (HITS) operator, or an Internet Protocol Television (IPTV) operator. Once the distributor has received and decoded the signals, they process and merge the TV channel signals of multiple broadcasters and platform services. After merging these signals, the distributor encrypts the combined signals and retransmits them further, either directly or through the local cable operator (LCO), to the customer. This process ensures that the customer receives a clear and uninterrupted signal from the television channel. MSOs stand at the middle point in the hierarchy of the Cable Services Sector between the Broadcasters on one side and Local Cable Operators on the other. In some instances, MSOs also provide the services directly to their consumers.

While examining the subject the Committee learnt that there has been a continuous decline in Cable TV Households and as per the Report of TRAI, the subscriber base of the Cable TV Industry has declined from 98.5 million (in 2018) to 67 million (in 2021) and further declining. The Committee also observed various constraints being faced by stakeholders in this sector. In the succeeding paragraphs, the Committee have examined various issues involved in the regulation of the cable TV industry in India and hope that the Observations/Recommendations will help in taking cognizance of the concerns related to this industry and addressing them too.

II. REGULATION OF CABLE TELEVISION IN INDIA

2. The Committee note that for regulating cable TV, „The Cable Television Networks (Regulation) Act 1995 (CTN Act)“ and „The Cable Television Network Rules 1994“ have been enacted and they are administered by the Ministry of Information and Broadcasting (MIB). The CTN Act comprises 5 chapters and 24 sections and it includes guidelines for cable networks operating within the country. The Act outlines provisions for mandatory registration of cable operators, categorizing them into Multi-System Operators (MSOs) and Local Cable Operators (LCOs). The Ministry of Information and Broadcasting serves as the registering authority for MSOs whereas the registering authority for LCOs is the Head-Post office of the area in which they intend to operate.

Initially enacted to safeguard subscriber interests and prevent the transmission of content against national interests, the Act has undergone amendments to adapt to evolving technologies and industry dynamics. The recent amendment was done through the Jan Vishwas Act, 2023. On the need for amendment of the CTN Act, 1995, the Ministry have informed that parity with other emerging technologies such as OTT has been the constant demand of the cable TV industry. The differential treatment of the content over different platforms (such as Programme Code and Advertisement Code for TV channels and IT Rules, 2021 for content over the internet) is one of the primary reasons for distinctive features for each of the broadcasting services. The Ministry have also informed that for creating a level playing field for all broadcasting services, the Cable Television Networks (Regulation) Act, 1995 may be amended and there is also a need to address the issues of satellite-based technologies which are being regulated through the old legislation. For this, the Ministry have prepared a draft „Broadcasting Services (Regulation) Bill, 2023“ which was in the public domain to seek comments of stakeholders/general public by 15th January, 2024. According to the Ministry, this proposed legislation aims to serve as a comprehensive framework governing various broadcasting services and emerging technologies.

The Committee further note that as per the notification „Broadcasting services and cable services to be telecommunications service“ made in 2004, the Telecom Regulatory Authority of India (TRAI) is mandated to regulate the Broadcasting and Cable Services. As per the provisions of the TRAI Act, TRAI has two types of functions, that is Regulatory and Recommendatory. The Committee note that the TRAI oversees issues pertaining to tariff, quality of service (QoS), and interconnection arrangements among different service providers in accordance with the TRAI Act of 1997. In March 2017, TRAI notified the Regulatory Framework for „Digital Addressable Systems“ and this framework comprised of (i) The Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order (Tariff Order); (ii) The Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, (Interconnection Regulations); and (iii) The Telecommunication (Broadcasting and Cable) Services Standards of Quality of

Service and Consumer Protection (Addressable Systems) Regulations, (QoS Regulations).

The Committee note that for regulating the Cable TV industry there are not only multiple Acts, Rules, Guidelines, etc. but there are also multiple regulatory bodies like MIB, TRAI, DoT, etc. For example, MIB serves as the registering authority for MSOs whereas the Head-Post office of the area serves as registering authority for Local Cable Operators. Besides, as submitted by MIB there is an urgent need for creating a level playing field for all broadcasting services as well as for addressing the need of satellite-based technologies which are being regulated through the old legislation. In view of the foregoing, the Committee are of the opinion that the Cable TV industry needs to be regulated through a comprehensive Act and therefore recommend the Ministry to ensure that the proposed „Broadcasting Services (Regulation) Bill, 2023“ sees the light of the day at the earliest since it will go a long way in resolving the concerns of this industry. Nevertheless, the Committee impress upon the Ministry to ensure that adequate consultations are done with all the concerned stakeholders. The Committee recommend that all the aspects concerning the cable industry may be taken into consideration while bringing in the comprehensive Bill. The Committee would further like to engage in constructive discussions regarding the proposed draft legislation at a more mature stage of its formulation. The Committee also desire to be apprised of the timeline by which the Ministry would table the „Broadcasting Services (Regulation) Bill, 2023“ for the consideration of the Parliament. The Committee desire to be apprised of the progress made in this regard.

III. CONSTRAINTS/CHALLENGES FACED WITH RESPECT TO CABLE TV REGULATION IN INDIA

3. With respect to the major issues concerning various players of the Cable TV industry viz. broadcasters, MSOs, LCOs, consumers, etc, TRAI has submitted that they engage with all the stakeholders regularly from time to time to identify and address the issues. All the issues identified are duly analyzed for wider impact on the sector. The issues requiring changes in policy/ regulations are also

examined in-depth. They follow an elaborate consultation process before issuing any recommendations/ regulations. The issues are submitted by the stakeholders from time to time. In addition, TRAI constituted a committee to deliberate on the issues relating to the sector in November 2021 comprising all stakeholders including representatives of MSOs, DTH service providers, and Broadcasters. As informed to the Committee by All India Digital Cable Federation (AIDCF), some of the concerns related to the Cable industry include a declining subscriber base, exponential increase in the channel prices by misusing their channel pricing freedom by Broadcasters, loss of livelihood of employees in the cable TV sector, etc. The Committee were also apprised of some of the constraints/challenges faced by the Ministry of Information and Broadcasting with respect to cable TV regulation in India include (i) Under-reporting of subscribers by cable operators leading to tax evasion and submission of inaccurate financial returns; (ii) Absence of robust oversight mechanism at the ground level acting as major roadblock in ensuring compliance to the relevant regulations/guidelines; (iii) Absence of central database for Local Cable Operators because the registration process is offline/manual and all LCOs are currently registered at the local head post office of their area of operations.; etc.

The Committee further note the measures/initiatives taken to address the issues concerning various players of the Cable TV industry, TRAI has issued the consultation paper on „Issues related to New Regulatory Framework for Broadcasting and Cable services“ on 7th May 2022 seeking stakeholders“ comments. On the basis of this consultation, on 22nd November 2022, TRAI notified the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff (Third Amendment) Order, 2022 and the Telecommunication (Broadcasting and Cable) Services (Addressable Systems) Interconnection Regulations (Third Amendment) Order, 2022. Further, to address various issues, TRAI issued a consultation paper titled „Review of Regulatory Framework for Broadcasting and Cable services“ on 23rd August 2023 seeking stakeholders“ comments. The Committee have been informed that the comments/ counter-comments are being analyzed by TRAI. In this regard, the Committee desire to be apprised about the updated status regarding the „Review of

Regulatory Framework for Broadcasting and Cable services" issued on 23rd August 2023 seeking stakeholders" comments along with the outcome on the following measures taken by MIB to ensure the growth of cable TV sector which includes (i) streamlining of procedures for Multi-System Operator (MSO) registration renewal, extending the period to ten years; (ii) Last Mile Access to Broadband service providers; (iii) Regulatory Framework for Platform Services issued on 30.11.2022; (iv) guidelines issued on infrastructure sharing on 29.12.2021, that is permitting Multi-System Operators (MSOs) to share infrastructure, including headends and networks, under specific conditions; (v) streamlining the registration procedure for LCOs, etc.

The Committee further recommend MIB to collaborate with the Ministry of Electronics and Information Technology (Meity) to develop a comprehensive digital solution for addressing underreporting among Cable TV subscribers and the absence of an oversight mechanism. This solution should include an advanced digital platform with robust data analytics tools to detect and mitigate underreporting, real-time reporting features, standardized data protocols, and regular audits for ongoing effectiveness. The user-friendly interface will facilitate seamless reporting and monitoring, ensuring transparency and accountability within the Cable TV sector.

The Committee would further urge the Ministry to (i) identify and address the issues acting as roadblocks of monitoring mechanism for ensuring compliance to the relevant regulations/guidelines; (ii) have a central database for monitoring cable operators; (ii) take initiatives for making Ministry of I&B as the registering authority for LCOs. The Committee would like to be apprised of the action taken on these issues.

IV. ROLE OF TRAI

4. The predominant business model used in the Indian Cable TV Industry is based on the subscription model. This means that customers are required to pay a subscription fee to access a range of TV channels and programs. This fee is collected by Local Cable Operators (LCOs) or Multi-System Operators (MSOs) who then distribute the revenue generated to various parties as per the terms

agreed upon in interconnection agreements. The interconnection agreements are contracts executed between the MSOs, LCOs, and broadcasters. The revenue distribution is based on a pre-agreed percentage split, which is typically determined based on various factors such as the number and type of channels offered, the customer base, and other related factors. The revenue share is typically distributed in proportion to the value provided by each party in the delivery of TV services. The Committee have been informed that cable TV pricing is regulated by the Telecom Regulatory Authority of India (TRAI) under the framework known as the „New Tariff Order“(NTO) and the latest order i.e. NTO 3.0 was introduced in 2022 to bring transparency and flexibility to cable TV pricing for consumers. Under NTO, the key points of the pricing policy include (i) Channel Pricing; Channel Bouquet Pricing; Network Capacity Fee (NCF) and MRP (Maximum Retail Price).

With respect to measures taken by TRAI to control and monitor pricing and tariffs for cable TV subscribers, TRAI has informed that the framework was successful in establishing harmonized business processes in the sector, level playing field, bringing transparency in TV channel pricing, reducing litigations among stakeholders and providing equal opportunities to smaller Multi System Operators (MSOs). However, after a market survey in July-August 2019, the Authority considered it expedient to review some provisions, and, after due consultation amendments to the Regulatory Framework 2017 were notified on 1st January 2020. However, the provisions related to the revision of television channels“prices in compliance with the January 2020 amendments could not be implemented due to the legal challenge and the Authority issued a letter dated 12th October 2021 to the broadcasters seeking compliance with all the provisions of amended Regulatory Framework 2020 as upheld by Hon“ble Court of Bombay within 10 days. Consequently, most of the broadcasters submitted their Reference Interconnect Offers (RIOs) to TRAI in line with the amended Regulatory Framework 2020 and published these on their websites in November 2021. As per RIOs filed by the broadcasters in November 2021, the new tariffs reflected a common trend i.e., the prices of their most popular channels including sports channels were enhanced beyond Rs. 19/- per month. Immediately after new tariffs

were announced by the broadcasters, TRAI received representations from Distribution Platform Operators (DPOs), Associations of Local Cable Operators (LCOs), and Consumer Organizations stating that the new tariffs as announced by broadcasters would cause a huge increase in consumer payout and will also entail wide-scale changes necessitating large scale implementation efforts.

TRAI also informed the Committee that DPOs (including All India Digital Cable Federation) 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 through the informed exercise of options, impacting almost all bouquets, due to upward revision in the rates of pay channels and bouquets. To deliberate on the various issues related to the implementation of the amended Regulatory Framework 2020 and suggest a way forward, a committee consisting of members from the Indian Broadcasting & Digital Foundation (IBDF), All India Digital Cable Federation (AIDCF) & DTH Association was constituted under the aegis of TRAI. To address the critical issues as identified by stakeholders, the Authority, after due consultation, notified the amendments, on 22nd November 2022. The amendments have been duly implemented in January/February 2023. The said amendments dated 22nd November 2022 were challenged by one of the stakeholders in the Hon^{ble} High Court of Kerala. The amendments were upheld by the Hon^{ble} Court. Further, according to TRAI Consumers are greatly empowered by the Regulatory Framework. A consumer becomes the real decision maker of what she/he views and has complete freedom to choose what he/she wishes to watch and pay only for that. The price of every television channel is clearly visible in the Electronic Program Guide on television. The consumer is not required to pay any subscription fee for an FTA channel if she/he subscribes to one. The amendments of January 2020 have increased the number of SD channels from 100 to 200 in the Network Capacity fee (NCF) of a maximum of Rs. 130/- per month. Now NCF for 2nd TV connection (or subsequent connections) is not more than 40% of declared NCF per additional TV.

On the decision of TRAI to not place a cap on channel pricing based on derived costing methodology for the benefit and protection of consumers, TRAI submitted that a channel consists of several programs. The cost of the production of different programs drastically varies based on the actors, setup cost, script, copyrights, and other miscellaneous factors. The various programs in a given channel also frequently change based on their Television Rating Points (TRP), advertisement potential, and other ground reports. Hence, determining the cost of production of a channel at all times is an extremely difficult process, perhaps almost impossible. They also stated that Broadcasters should be given business flexibility to monetize their channels.

Further, due to conflicting positions presented by AIDCF and TRAI during the deliberations, the Committee urged both parties to engage in constructive dialogue and enhance mutual understanding before presenting their respective facts to the Committee. The Committee express disappointment at TRAI's decision to instruct AIDCF to address pricing policy discrepancies without holding a meeting. Despite the Committee's clear directive, TRAI has persistently refused to engage with AIDCF. The Committee emphasized that fostering harmonious relations between the parties is crucial for achieving an amicable solution, but unfortunately, this collaborative approach has not been observed. The Committee acknowledge the complexity involved in determining channel pricing due to various factors influencing costing. Nevertheless, it emphasizes that TRAI holds a shared responsibility to ensure consumers receive services at a fair price. The Committee further recognized the paramount importance of providing consumers with good Quality-of-Service (QoS) under all circumstances. Given TRAI's pivotal role in fostering a healthy and competitive telecommunications and broadcasting ecosystem, the Committee recommend a collaborative effort among all stakeholders to address all the issues amicably as it encourages parties to engage in constructive discussions, find mutually agreeable solutions, and take necessary actions to deliver optimal services to consumers. The Committee desire to be apprised regularly of the updates on the progress made in this regard.

V. ENHANCED FLEXIBILITY TO CURATE PERSONALIZED PACKAGES FROM BOUQUETS

5. The Committee note that the central concern within the purview of Cable TV Regulations pertains to the prevalent practice of Broadcasters implementing substantial discounts in the pricing of their bouquets while maintaining elevated individual prices for a-la-carte channels. The Committee was informed by AIDCF that TRAI has given complete forbearance to Broadcasters to price their channels at any level (except for a notional capping at Rs. 19 if the channels are to be included in Bouquet). This is being misused by Broadcasters, as they have significantly increased their Pay TV channel Prices by up to 600% after the implementation of the New Tariff Order in 2019 and a further hike of up to 200% in some cases after the implementation of NTO 3.0, by force bundling all their channels, which is eventually becoming a burden on Pay TV subscriber. According to AIDCF, the Broadcaster makes a bouquet of channels (which include one or two driver channels and about 7-8 unpopular channels) and demands MSOs and DTH players to sell the same bouquet to a minimum of 90% of the subscriber base without breaking the bouquet. MSO does not get the incentive if 90% of subscribers do not subscribe to the bouquet intact. This means a common man pays for 7-8 unwanted channels which include English channels, sports channels (which have important events only 2-3 months in a year). AIDCF also submitted that the Cable TV monthly prices for the consumers have significantly increased from Rs. 200-300 in 2017-18 to Rs. 350-450 in 2022-23; DPOs are forced to sell Broadcaster's bouquets and A-la-carte prices of the channel are artificially hiked, so that consumer is also forced to purchase bouquets only. They have also stated that the TRAI consultation paper in 2019 have pointed out this, but no action was taken to correct it.

The Committee discern that, since DPOs are the primary service providers operating through Local Cable Operators (LCOs), therefore, the DPOs are strategically positioned to perceive and respond to the nuanced preferences and requirements of subscribers. The Committee acknowledge that the current practice of compelling subscribers to opt for predefined bouquets offered by

Broadcasters acts as a hindrance to consumer choice. While the Committee do not question the Broadcasters' intent, it perceives that this practice does not align with the interests of consumers. Therefore, in order to safeguard consumer interests and promote freedom of choice, the Committee recommend that Distribution Platform Operators (DPOs) be granted the authority to select individual channels from broadcasters' bouquets. Further, in order to ensure that consumers have the flexibility to subscribe only to channels of their interest, fostering a more personalized viewing experience, the Committee recommend that DPOs should only be permitted to choose channels based on consumer preferences and remit to broadcasters the proportional price of the selected channels. The Committee wish to be apprised of the action taken in this regard.

VI. DEMARCATION IN THE ADVERTISING GUIDELINES BETWEEN PAY TV AND FTA CHANNELS:

6. During the deliberation of the Committee, the stakeholders submitted that Broadcasters push their non-driver channels by bundling them with „driver channels“ to earn advertisement revenues. The Committee were further informed that the „Pay TV“ channels are showing a plethora of advertisements, despite charging hefty subscription fees from subscribers. It was further stated that establishing a clear demarcation in the advertising guidelines between Pay TV and FTA channels is in the interest of the consumer. The Committee consider that there is a need for a thoughtful examination of such issues to safeguard consumer interests. The Committee, therefore, call upon for a categorization of channels as either „Pay-TV“ or „Free-to-air“ (FTA), based on the respective sources of revenue. The Committee, therefore, recommend for initiating a comprehensive consultation focused on the costing methodology of TV channels. This consultation should also aim to tackle the issue where consumers, who are essentially paying subscription fees, find themselves subjected to advertisements for a significant duration of their viewing experience.

VII. ISSUES RELATED TO AGR DEMAND:

7. With respect to „Adjusted Gross Revenue Demand“ (AGR), AIDCF have informed that Department of Telecommunication has raised wrongful demand to the tune of Rs. 7,000 Crore on Cable TV operators /MSOs by computing license fee on their Cable TV revenues (which do not come under the ISP license as MSOs operate under registration from Ministry of Information and Broadcasting), whilst license fee on the pure internet services itself was exempt under DOT License. It was also stated that several MSOs received the demand retrospectively with huge penalty and interest on Penalty based on wrong interpretation of the Hon“ble Supreme Court order delivered on 24.10.2019, in Union of India v. Association of Unified Telecom Service Providers of India, (2020) 3 SCC 525 (hereinafter referred to as “AGR Judgment”) in which MSOs are not at all parties and the ISP license /Unified License under which they operate is different from UAS license. The amount is so large that the MSOs will be pushed to bankruptcy.

AIDCF have also informed that the demands raised by the DoT are unsustainable because the ISP licenses issued to MSOs are different from the UAS License considered by the Hon“ble Supreme Court in the AGR Judgment. In 1999, UAS license holders requested the Government for a migration package from a Fixed license fee to a license fee as a revenue share as they were not able to pay huge, fixed fees. MSOs are not covered by such a migration package. MSOs were never in the actual business of providing mobile services to the public like the parties before the Hon“ble Supreme Court. Two businesses - Cable TV and Internet Services - are under two different ministries, i.e., the Ministry of Information and Broadcasting and the Department of Telecommunication, respectively, and under different licenses. When the DoT were asked to provide a detailed account of the demands for license fees raised by the DoT on Multi System Operators (MSOs) for simultaneously offering internet services under Internet service provider licenses and the reasons for the demands, they informed that they grant licenses under section 4 of Indian Telegraph Act 1885 to offer various telecommunication services including Internet services. Any

company that proposes to offer Internet services is required to obtain the Internet Service provider license granted by DoT. It was further added that the matter is still sub judice and the next hearing of the case is on 23.01.2024. Since the matter is sub judice, the Committee would not like to furnish its comment at this stage, however, the Committee desire to be kept apprised about the development on this issue.

VIII. ISSUE RELATED TO GST LIABILITIES

8. The Committee acknowledge the complex dynamics between Multi-System Operators (MSOs) and Local Cable Operators (LCOs) within the cable television service ecosystem, particularly concerning Goods and Services Tax (GST) liabilities. As informed by the stakeholders, the Supreme Court, in the case of M/s Hathway Sukhamrit Cable and Datacom (P) Ltd., has outlined that Local Cable Operators (LCOs) receive signals from Multiple System Operators (MSOs), and the ultimate consumers or subscribers receive signals from LCOs. Moreover, the judgment has established that the service recipient for MSOs is the LCO, and for LCOs, it is the ultimate subscribers. The judgment emphasized that notwithstanding the provision of access to television channels through set-top boxes by MSOs, the interface between ultimate consumers and cable signals remains the exclusive domain of LCOs. The Committee find these observations crucial as they help in understanding the distinct roles and responsibilities of MSOs, LCOs, and ultimate subscribers.

The Committee recognize that LCOs wield control over, manage, and service the cable television network, and they are responsible for collecting charges from subscribers. The Committee are of the considered opinion that any GST and entertainment tax liabilities pertinent to LCOs should be exclusively discharged by LCOs, as per the applicable norms. Thus, in order to maintain fair distribution of tax responsibilities, the Committee strongly urge to hold an inter-Departmental consultation between Ministry of Information and Broadcasting and Department of Revenue with a mandate to define GST responsibilities within the sector, aiming to protect the interests of both MSOs and LCOs, with an approach meant to create a fair and effective tax system for the cable television sector.

IX. ISSUE OF EMPLOYMENT

9. According to „All India Digital Cable Federation (AIDCF)“, an association of major Multi-system Operators functioning in India, approximately 3lakh employees have lost their livelihood in the last 4 years, and additionally, around 3 lakh workforce is on the verge of losing their livelihood in cable TV industry across India due to massive reduction in cable TV base. When asked to provide the data related to number of job losses that have occurred in the past 5 years due to the declining subscriber base in the Cable TV industry, the Ministry informed the Committee that the employment landscape in the cable TV sector is predominantly informal and lacks a standardized record-keeping and reporting system. Unlike industries with a higher prevalence of contract-based employment, the cable TV industry often engages a significant portion of its workforce on an informal basis, making it challenging to compile specific data on job losses attributed to the declining subscriber base. However, the associations of MSOs and LCOs have claimed sustained reduction in the workforce in the industry over the last 5 years. The Committee while taking note that the decline in the work force in Cable TV sector is one of the inevitable effects of the advancement of technology call upon the Ministry to apprise about the measures envisaged to address this issue.

X. IMPACT OF OTT PLATFORMS ON THE CABLE TV

10. The Committee note that the emergence of Over-The-Top (OTT) platforms has brought about significant transformations in India's cable TV industry, impacting both regulatory frameworks and market dynamics. Since OTT platforms offer cost-effective access, on-demand content and flexibility, it has led to eroding of the market share of traditional cable TV services. The entry of global players into the Indian market has also added to the competition, as they can invest significantly in content creation and distribution, posing a substantial challenge to cable TV operators. While cable TV is governed by established regulations such as the Cable Television Networks (Regulation) Act, 1995 and the Telecom Regulatory Authority of India (TRAI) Act, 1997, OTT platforms have

largely operated outside these regulations and they fall under the „Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021“. Content regulation differs as well, with cable TV subject to the Programme Code and Advertisement Code, whereas for OTT platforms there is the „IT Rules, 2021“ and content regulation on OTT faces controversy due to concerns about objectionable material.

Elaborating on the strategies that were being implemented by the Ministry to ensure content parity between OTT applications, Cable TV, and DTH subscribers, the Ministry informed the Committee that the content provided on linear broadcasting (Cable TV, and DTH subscribers) and on-demand platforms like OTT is treated differently owing to the expressed consent and desire of consumers exercised while accessing the on-demand platforms. However, the draft „Broadcasting Services (Regulation) Bill, 2023“ which intends to bring on-demand platforms like OTT which has been prepared is also under its preview. A single legislation and apex self-regulation body named Broadcast Advisory Council (BAC) is expected to bring reasonable parity on content while respecting the differences in the nature of broadcasting. To bring OTT application services within the scope of the Cable Television Networks Regulation Act, 1995, and „The Cable Television Networks Rules, 1994“, or other content regulations, the Committee note that the MIB have prepared the draft Broadcasting Services (Regulation) Bill, 2023. The Committee hope that this legislation would act as an umbrella legislation for the Broadcasting Services as it aims to cover online curated content (for example OTT) and publisher of news under its ambit.

The Committee further observe that there is a need to rectify the existing disparity between Cable TV and OTT Platforms. With the aim of eliminating content disparities across various content delivery platforms, the Committee recommend the Ministry to enact a comprehensive regulatory framework. This framework should compel Broadcasters to make their content accessible on all available platforms, ensuring a level playing field for cable television and analogous technologies. Such measures, would aid in promoting fairness, diversity, and accessibility in the content distribution landscape, benefiting both

consumers and industry stakeholders. The Committee further expect that the issue related to content parity will be resolved at the earliest.

XI. GRIEVANCE REDRESSAL MECHANISM

11. The Committee note that „The Cable Television Networks (Regulation) Act, 1995“ addresses grievances and complaints related to contents through a three-level structure: self-regulation by broadcasters, self-regulating bodies, and oversight by the Central Government. The Ministry have informed that with respect to the consumers“ complaints against cable operators, a robust mechanism i.e. Centralized Public Grievance Redress and Monitoring System (CPGRAMS) portal is in place. The portal has been updated keeping in mind the exclusive need of consumers in relation to cable TV networks. The portal has stakeholders like TRAI, State Authorities (Authorized Officer and State Police Authorities) etc. to whom the complaints against cable operators can be forwarded to in no time. In addition to this there is a dedicated portal for complaints related to channel pricing, bouquet-related issues, quality-related issues etc. is being operated by TRAI.

The Committee further learnt that the Cable Television Networks Rules, 1994 were amended on 17th June, 2021 so as to provide a statutory mechanism for redressal of grievances/ complaints of citizens relating to content broadcast by television channels. As per these Rules, to ensure observance and adherence to the Programme Code and Advertisement Code specified under the Cable Television Networks Rules, 1994, there should be a 3-level structure that is at Level I - self-regulation by broadcaster; at Level II - Self- Regulation by the self-regulating bodies of the broadcasters; at Level III - an oversight mechanism by the Central Government. While noting that „The Cable Television Networks (Amendment) Rules, 2021, institutionalizes a statutory mechanism for grievance redressal and CPGRAMS portal is in place for consumers“ complaints against cable operators, the Committee desire to be kept apprised of the number of grievances addressed at Level I, II and III since 2021. The Committee would also like to be apprised about the cases handled by the dedicated portal operated by

TRAI that is meant for complaints related to channel pricing, bouquet-related issues, quality-related issues etc., along with the reasons for delay in addressing the complaints, if any. Nevertheless, the Committee also recommend the Ministry to make the grievance redressal mechanism more consumer friendly and create awareness drive for Consumer about the Grievance Redressal Mechanism that is available as it is very essential for a robust and responsive cable TV eco-system. The Committee would like to be apprised of the progress made in this regard.

**New Delhi;
06 February, 2024
17 Magha, 1945 (Saka)**

**PRATAPRAO JADHAV,
Chairperson,
Standing Committee on
Communications and Information Technology.**

ANNEXURE-I

Key Recommendations of TRAI for Cable Television	
Date	Recommendations
12.11.2008	Recommendations on —Issues relating to entry of certain entities into broadcasting and distribution activities”.
30.06.2010	Recommendations on —Foreign Investment Limits for Broadcasting Sector”.
05.08.2010	Recommendations on —Implementation of Digital Addressable Cable TV Systems in India”.
22.08.2013	Recommendations on —Foreign Direct Investments (FDI) in Broadcasting Sector in India”.
26.11.2013	Recommendations on —Monopoly/Market dominance in cable TV services”
12.08.2014	Recommendations on —Issues Relating to Media Ownership”
19.11.2014	Recommendations on —Regulatory Framework for Platform Services”.
29.03.2017	Recommendations on Sharing of Infrastructure in Television Broadcasting Distribution Sector
26.02.2018	Recommendations on Ease of Doing Business in Broadcasting Sector.
22.07.2019	Recommendations on Entry Level Net worth requirement of Multi-system Operators in Cable TV services.
11.04.2020	Recommendations on Interoperability of Set-Top Box
07.09.2022	Recommendations on Market Structure/Competition in cable TV services”
29.12.2022	Recommendations on 'Renewal of Multi-System Operators (MSOs) Registration'
31.03.2023	Recommendations on Promoting Local Manufacturing in the Television Broadcasting Sector
02.05.2023	Recommendations on Ease of Doing Business in Telecom and Broadcasting Sector

**STANDING COMMITTEE ON COMMUNICATIONS AND
INFORMATION TECHNOLOGY (2023-24)**

MINUTES OF THE THIRD SITTING OF THE COMMITTEE

The Committee sat on Thursday, the 14 December, 2023 from 1615 hours to 1745 hours in Committee Room No. 3, Extension to Parliament House Annexe, New Delhi.

PRESENT

Shri Prataprao Jadhav- Chairperson

MEMBERS

Lok Sabha

2. Shri Karti P. Chidambaram
3. Smt. Sunita Duggal
4. Dr. Sukanta Majumdar
5. Shri Santosh Pandey
6. Shri Sanjay Seth
7. Shri Ganesh Singh
8. Shri Shatrughan Prasad Sinha

Rajya Sabha

9. Dr. Anil Aggarwal
10. Dr. John Brittas
11. Shri Syed Nasir Hussain
12. Shri Praful Patel
13. Shri Kartikeya Sharma
14. Shri Jawahar Sircar
15. Shri Lahar Singh Siroya

SECRETARIAT

1. Shri Satpal Gulati - Additional Secretary
2. Smt. Jyothirmayi - Director
3. Shri Nishant Mehra - Deputy Secretary

LIST OF WITNESSES

REPRESENTATIVES FROM MINISTRY OF INFORMATION AND BROADCASTING

Sl. No.	Name	Designation
	Shri Apurva Chandra	Secretary
	Shri Sanjiv Shankar	Joint Secretary

REPRESENTATIVES FROM MINISTRY OF COMMUNICATIONS (DEPARTMENT OF TELECOMMUNICATIONS)

Sl. No.	Name	Designation
1.	Shri Mohammad Shahbaz Ali	Advisor (F)

REPRESENTATIVES FROM TELECOM REGULATORY AUTHORITY OF INDIA (TRAI)

Sl. No.	Name	Designation
1.	Ms. Meenakshi Gupta	Member & Acting Chairperson

REPRESENTATIVES FROM ALL INDIA DIGITAL CABLE FEDERATION (AIDCF)

Sl. No.	Name	Designation
1.	Sh. Manoj Chhangani	Secretary General, AIDCF
2.	Sh. S N Sharma	CEO, DEN Networks Limited
3.	Sh. Yogesh Sharma	CEO, Siti Cable Network

2. At the outset, the Chairperson welcomed the Members to the Sitting of the Committee convened to consider and adopt two draft Action Taken Reports on Demands for Grants (2023-24) relating to the Ministries/Departments under their jurisdiction and to have briefing by the representatives of the Ministry of Information and Broadcasting, Department of Telecommunications, Telecom Regulatory Authority of India (TRAI) and All India Digital Cable Federation (AIDCF) on the Subject 'Regulation of Cable Television in India' relating to Ministry of Information and Broadcasting.

3. The Committee, then, took up the following two draft Reports for consideration and adoption:-

- (i) Draft Report on Action Taken by the Government on the Observations/Recommendations of the Committee contained in their Forty-fifth Report on 'Demands for Grants (2023-24)' relating to the Ministry of Electronics and Information Technology.
- (ii) Draft Report on Action Taken by the Government on the Observations/Recommendations of the Committee contained in their Forty-seventh Report (Seventeenth Lok Sabha) on 'Review of functioning of

Central Board of Film Certification (CBFC)' relating to the Ministry of Information and Broadcasting.

4. The Committee adopted the Reports without modifications.
5. The Committee authorized the Chairperson to finalize the draft Action Taken Reports and present the same to the House during the current Session of Parliament.

(The witnesses were then called in)

6. Thereafter, the Chairperson welcomed the officials of the Ministry of Information and Broadcasting to the Sitting of the Committee. The Chairperson, in his opening remarks drew their attention to the recent amendment made in the Cable Television Networks (Regulation) Act, 1995 through the Jan Vishwas (Amendment of Provisions) Act, 2023 which decriminalized the contraventions under the Act and asked the Ministry to elaborate as to why the contraventions were decriminalized. Further, with change in the mandate of the Ministry of Information and Broadcasting and emergence of OTT platforms, he desired to know about the constraints/challenges being faced by the Ministry with respect to cable TV regulation in India as well as the need for amending the CTN Act. The Ministry were asked to provide details of issues that have emerged post-digitization of cable TV alongwith the measures taken to address them. They were also asked about the existing pricing policy of cable TV channels and the role of TRAI to regulate the same. The Chairperson, then, desired to know about the role of 'All India Digital Cable Federation (AIDCF)' in regulation of cable TV in India. He also sought details of the complaints received against cable TV operators' in last 3 years alongwith their redressal status and the means available to consumers for redressal of their grievances with regard to choice of channels, their rates, etc. The Ministry were also asked to apprise the Committee about the impact of OTT platforms on cable TV popularity, if any.

7. Thereafter, the representatives of AIDCF sought permission to make a brief presentation before the Committee and through power point presentation myriad issues related to the subject were covered which *inter-alia* included (i) Impact of increase in price of *a-la-carte* channels from pre-New Tariff Order (NTO) regime to New Tariff Order (NTO) 3.0 regime; (ii) Variation in price of channel given by broadcasters to different Multi System Operators (MSO); (iii) issues related to increase in subscription cost; (iv) Issues related to payment of more price for less number of channels when compared to pre-NTO prices; (v) Issues related to creation of bouquet of channels by Broadcasters and non-allowance of breaking of bouquet of channels created by the Broadcasters; (vi) Lakhs of people losing their jobs because only 110 million (approximately) satellite homes in India including about 55 million cable homes were there and remaining were DTH; etc.

8. Subsequently, the Secretary, M/o I&B was asked to respond to the issues deliberated upon and he informed the Committee that the whole issue was regarding NTO - NTO 1.0, NTO 2.0, NTO 3.0. The Government was not party to it because it is directly between TRAI and the Broadcasters and it was directly an order passed by TRAI and the NTO was applicable to the Broadcasters, to the channel bouquets (whether it goes to DTH or to the cable). Elaborating further, the Secretary informed the Committee about reduction in existing 18 crores TV homes (DTH and cables) and rise in Free dish. He also informed

the Committee that people were consuming more content today due to advancement of technology, preference of OTT content and internet content instead of linear TV.

9. Thereafter, the representatives of TRAI, through a power point presentation clarified the issues raised by AIDCF which *inter-alia* included (i) The role of TRAI to protect the interest of service provider and to promote and ensure orderly growth of the sector; (ii) Four phases of digitization of Cable TV; (iii) Issues associated with freezing of price of channels in January 2004; (iv) Issue related to WPI based increase done in 2005, 2006 and 2009; (v) Tariff order that came for the first time in 2010 and the addressable system price made applicable to MSOs as soon as they started migrating to DASH-based system; (vi) Measures taken after 2017 i.e. non-prescription of ceiling on a-la-carte channels and prescription of a ceiling of Rs. 19 for putting channels into a bouquet; (vii) Segregation of the network cost and charging of network capacity fee (NCF); etc. TRAI also informed the Committee that there are total number of 906 channels wherein 550 channels are free to air and 213 are pay channels and these pay channels decreased their prices because of 2017.

10. After that, the Committee deliberated and sought clarifications on various issues which inter-alia included (i) Channels given to customer in pre-NTO and NTO 3.0 period; (ii) Discrimination in price given by broadcasters from Multi System Operators (MSO) to MSO; (iii) National data regarding amount/price that the consumers would have shelled out due to price increase; (iv) Actual number of cable and satellite homes in the country; (v) Validity of NTO even on digital dispensation like smart TVs; (vi) Same content of TV being available on digital platform without any tariff orders; (vii) Cost of a pack for same number of channels in comparison to what it costed in September 2019; (viii) Broadcasters being free to price the channel at any price without any threshold for a-la-carte channels; (ix) satisfaction level of consumers after New Tariff Orders; (x) Issues associated with digitization of Cable TV; (xi) Issues related to reconciling the difference in number of TRAI and AIDCF and meeting between them; (xii) Pay-TV channel ecosystem being affected by OTT platforms and Free Dish TVs; (xiii) Issues related to Revenue share/generation of the Broadcasters; etc.

11. The representatives of M/o I&B, TRAI, DoT and AIDCF responded to most of the queries raised by the Members. The Chairperson, then, directed that written replies may be furnished to the Committee to the points on which information were not readily available.

12. Thereafter, the Chairperson thanked the representatives of M/o I&B, TRAI, DoT and AIDCF for deposing before the Committee.

The witnesses then withdrew.

Verbatim Proceedings of the Sitting have been kept on record.

The Committee, then, adjourned.

**STANDING COMMITTEE ON COMMUNICATIONS
AND INFORMATION TECHNOLOGY (2023-24)**

MINUTES OF THE FOURTH SITTING OF THE COMMITTEE

The Committee sat on Tuesday, the 6th Feb, 2024 from 1500 hours to 1535 hours in Main Committee Room, Parliament House Annexe, New Delhi.

PRESENT

Shri Prataprao Jadhav- Chairperson

MEMBERS

Lok Sabha

2. Shri Karti P. Chidambaram
3. Smt. Raksha Nikhil Khadse
4. Dr. Sukanta Majumdar
5. Shri Santosh Pandey
6. Shri Shatrughan Prasad Sinha
7. Dr. M.K. Vishnu Prasad

Rajya Sabha

8. Dr. Anil Aggarwal
9. Dr. John Brittas
10. Shri Jaggesh
11. Shri Jawahar Sircar
12. Shri Lahar Singh Siroya

SECRETARIAT

1. Shri Satpal Gulati - Additional Secretary
2. Smt. Jyothirmayi - Director
3. Shri Nishant Mehra - Deputy Secretary

2. At the outset, the Chairperson welcomed the Members to the Sitting of the Committee convened to consider and adopt Reports relating to the Ministries/Departments under their jurisdiction.

3. The Committee, then, took up the following draft Reports for consideration and adoption:-

(iii) xxxxxxxx.....xxxxxxx.....xxxxxxx.....xxxxxxx

(iv) xxxxxxxx.....xxxxxxx.....xxxxxxx.....xxxxxxx

(v) Draft Report on the subject ‘Regulation of Cable Television in India’ relating to Ministry of Information and Broadcasting

(vi) xxxxxxxx.....xxxxxxx.....xxxxxxx.....xxxxxxx

4. After due deliberations, the Committee adopted the Reports without modifications.

5. The Committee authorized the Chairperson to finalize the draft Reports and present the same to the House during the current Session of Parliament.

The Committee, then, adjourned.

xxxxxxx.....xxxxxxx..... **Matter not related**