



9th March 2023

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Subject: AROI Comments in response to Telecom Regulatory Authority of India Consultation Paper on Issues related to FM Radio Broadcasting

Dear Sirs,

We write on behalf of the Association of Radio Operators in India (AROI), to provide comment and suggestions in response to the Telecom Regulatory Authority of India (TRAI) Consultation Paper on Issues related to FM Radio Broadcasting (**Consultation Paper**). We thank your good offices for issuing the Consultation Paper and allowing stakeholders to present their suggestions and concerns.

As you are aware, AROI is the association of radio operators in India. It is registered as a society under the Societies Registration Act, 1860, with the aim of promoting the interests of Radio Media sector and its Member Operator. The association seeks to promote cooperation on matters affecting the common business interests of its Radio Operator members who operate 384 FM Radio Stations in India.

It is in light of AROI's role to protect, promote and address the concerns of the private FM radio industry that AROI is making the present suggestions to the Consultation Paper. In consideration of the comments that have been sought towards the Consultation Paper, we submit as under:

- The private FM Radio industry has suffered serious financial repercussions owing to a multitude of factors, including the economic slowdown owing to the COVID-19 pandemic, high license fees and music acquisition costs, reduced FM radio listenership, high recurring infrastructure costs, and declining ad-revenues. Against this backdrop, the Consultation Paper considers and sets out a few of the most critical issues pertaining to the FM radio industry. If the issues are deliberated and dwelled upon progressively, the Consultation Paper may lead the TRAI to provide recommendations that bolster the private FM radio industry and help it recover from the continuing financial distress. Ultimately, the growth of the FM radio industry is also in the public interest as the same would entail consumer access to FM radio, thereby ensuring access to free entertainment and the availability of socially relevant content to consumers.

- A perusal of the data from FICCI – Ernst & Young Report on Media & Entertainment, 2021 published in March 2021 (FICCI Report 2021) demonstrates that Radio Advertisement Revenue dropped by 54 percent in Calendar Year 2020 as compared to Calendar Year 2019 (Figures for all radio including private). It is noteworthy that, as per the FICCI Report 2021, the radio industry's revenue (gross of tax) declined from INR 31.1 billion in CY 2019 to INR 14.3 billion in CY 2020. The revenues of the radio industry recorded a massive plunge of 54% in CY 2020 as compared to CY 2019 since key advertiser segments (regional and retail) were unable to run their businesses at their usual scale due to multiple waves of COVID-19 pandemic.
- Radio is a free-to-air medium where revenues are purely dependent on advertisement revenues. It has been adversely affected due to the influx of digital platforms. Much of the advertising spends are now on digital mediums thereby impacting the revenue potential of FM Radio adversely. This is also because of the limitation of being audio-only medium with limited FCT inventory available with FM radio operators, as the broadcasters need to have to balance of music and ad content to retain their audiences.
- In addition to the fact that radio has only one avenue of earning revenues i.e. advertisements, We need to highlight the enormous input costs payable by radio broadcasters by way of fixed costs as mandated by Prasar Bharati and MIB, including Wireless Operating License Fee, Prasar Bharti Tower Rental Fee, Operation and Maintenance of Common Transmission Infrastructure, the One Time Entry Fee under Phase III and percentage of revenue shared with MIB. The above fixed costs in the last three financial years beginning 2017 till 2020, have been as high as 77% – 84% for many broadcasters, of their gross revenue for each financial year, respectively. Further, they also incurs huge employee costs.

Keeping these points in perspective, following are the comments and suggestions on the specific questions mentioned in the consultation paper.

Q.1. Are provisions related to Annual License Fee prescribed in the extant Policy guidelines for FM Radio broadcasting reasonable? If not, please provide methodology and criteria for arriving at Annual License Fee for private FM Radio channels with detailed justification.

AROI Recommendation:

We recommend that the Annual Fees be delinked from Non Refundable One Time Entry Fees and that the formula should be revised in Policy Guidelines on the expansion of FM Radio broadcasting services through private agencies (Phase III Policy Guidelines) dated 25.7.2011 under Clause 6.1 as follows,

The Permission Holder shall be liable to pay an Annual Fee to the Government of India every year charged @ 4% of Revenue of its FM radio channel for the financial year.

Background and Justification

- a. The Consultation Paper gives a detailed background how, the formula for calculation of annual fee as it currently stands is - higher of: (a) 4% of Gross Revenue for the financial year; or (b) 2.5% of the NOTEF. NOTEF is the successful/ highest bid amount arrived in a particular city through an ascending e-auction process of Phase III licenses (Clause 4.1 of Phase III Guidelines) was arrived at.

b. The above formula for annual license fee calculation under Phase III is not based on TRAI's Recommendations on Phase III, 2008, which recommended that the annual fee may be same as prescribed for FM Radio broadcasting Phase-II. TRAI recommended calculation of annual license fee on the basis of Reserve One Time Entry Fee (ROTEF).

c. The calculation of annual fee based on NOTEF results in serious discrimination and adverse economic consequences as places where frequencies have been auctioned in the Phase III regime, the bid amount have exceedingly increased which ultimately affects all license/permission holders even those who had no part in the bidding, determination, and auction of Phase III license. As enumerated in AROI's earlier representation dated 29.09.2021, which has been annexed and relied upon in the Consultation Paper, in cities such as New Delhi where one frequency was put up for auction under Phase III, while the reserve price for Phase II stood at INR 37 crores, the bidding for the frequency in Delhi rose up to INR 169 crores which became the NOTEF for Delhi. Given the accessibility and outreach to a large number of listeners in the capital city of New Delhi and the single put up for auction, there arose a "scarcity premium". As a result, bidders continued to bid for the frequency, leading to an overpriced NOTEF, which impacted even broadcasters who did not participate in the bidding. Contrary to this, in cities where frequencies were not put up for auction under Phase III such as Kolkata, the annual fee was calculated based on percentage of gross revenue, resulting in no available NOTEF. As a result, annual fee calculated as a percentage of the gross revenue in such cities was much more reasonable.

f. In light of the aforesaid fact, it is evident that the calculation of annual license fees based on NOTEF prices is creating gaps, affecting both smaller private FM radio operators and the big broadcasters. Further, NOTEF also creates discriminatory annual license fees in different cities and also casts additional burden on radio broadcasters who are not a part of the e-auction process.

g. In its recommendations on the issues relating to charging of migration fee i.e. the Non-Refundable One-Time Migration Fees ("NOTMF"), TRAI rightly stated that:
"...where channels available for auction are one-third or less of the total channels in that city, i.e., the number of channels available for auction in such cities are scarce and thereby the auction-determined prices in such cases may not represent the fair underlying value of the resource as such prices would be determined under a supply constraint and using these prices as a reference price for determining the migration fee ... may not be reasonable" (emphasis supplied).

h. Ministry of Information & Broadcasting (MIB) accepted TRAI's recommendations regarding the unsuitability of using auction discovered prices insofar as the NOTMF was concerned. However, it did not consult the TRAI, as mandatorily required under the 2nd proviso to Section 11(1) of the TRAI Act in respect of Annual Fee calculation and decided not to apply the underlying logic of the recommendations when it came to the Annual Fees. MIB has till date failed to provide any rationale, reports, notes of deliberation giving logic of the current formula of Annual Fee till date.

i. It is relevant to point out that, the Phase-III Policy notified on 25.7.2011 expressly stated in para 31.4 that the "annual fee payable by existing permission holders of Phase-II shall continue to be determined as 4% of Gross Revenue or 10% of Reserve OTEF for the city determined for the city during Phase-II bidding." MIB has, however, chosen not to provide the basis for amending the 2011 Policy on Migration by the Order dated 21.1.2015 which makes the current formula obviously arbitrary and devoid of logic.

j. In the current economic scenario, which is already crippled by the pandemic, such formula which is completely oblivious to the financial realities of the FM broadcasters, will only lead to extinction of FM industry, if not rectified in time. Please again note that there has been a 50 percent plus drop in revenue during Pandemic and even as of 2023, it is expected to reach only about 70 percent of Pre-Covid Levels.

k. The Covid Pandemic brought forward the inherent unfairness in the formula, wherein during a period of acute economic crisis the radio stations had to pay 2.5 percent of NOTEF as license fee, which were, in many cases higher than 100 percent of the Revenue earned during early months of year 2020-21. Even now it translates to a much higher figure (about 11 percent) of Revenue. To cover such situations that arise due to Force Majeure conditions, the license fees should be linked to revenue and not NOTEF.

L. In light of the above, we have recommended that the Annual License Fee be delinked from NOTEF and be fixed at 4 percent of Gross Annual Revenue. In conditions such as the one resulting from Covid pandemic where fell by 50 percent and more, the stations had to pay most of their revenue towards license fees leaving very little funds for operations and salary of employees. Many jobs were lost due to this. This recommended formula that links Annual License fees only to Revenue automatically factors in such conditions. The stations will therefore have to pay only on Revenues earned, which is fair and non-discriminatory.

To summarize

i. The recommended formula removes the arbitrariness in imposing the additional financial burden on radio operators.

ii. The recommended formula removes the various anomalies caused due to subjecting existing stations who did not participate in new auctions to a license fee linked to auction fees (NOTEF) paid by another operator.

iii. The recommended formula removes a very heavy financial burden caused by a high auction fees (NOTEF) determined by other operators who bid high for left over frequencies under conditions of acute supply shortage.

iv. In conditions such as Emergency like situation resulting from Covid pandemic where Revenue dropped by 50 percent and more, the stations had to pay most of their revenue towards license fees leaving very little funds for operations and salary. Many jobs were lost due to this. The recommended formula that links Annual License fees only to Revenue automatically factors in such conditions.. The stations will therefore have to pay only on Revenues earned.

Q2. Is there a need to extend the permission period for existing FM Radio licensees?

a. If yes, what should be the revised permission period? Please prescribe the period with detailed reasoning/ justification.

b. If not, is there a need to extend any other assistance to private FM Radio broadcasters to overcome the impact of the pandemic? If so, please suggest suitable measures with quantified parameters and justification.

AROI Recommendations

Aroi recommends that the License period be extended by at least three years.

Background and justification:

a. Phase III Policy Guidelines prescribes the period of permission for FM radio under Clause 3 as 15 years from the effective date.

b. As we all are aware, our **Central Government and various State Governments had imposed complete lockdown** measures to strictly implement social distancing in order to curtail the spread of this life-threatening pandemic **in the years starting 2020 to 2022**. As reported in the media, as on 24 March 2020, **as many as 30 States and Union Territories, totaling 548 districts had imposed total lockdowns**. Even prior to the complete lockdown by the States, private sector had implemented work from home policies to protect their employees and avoid the rampant spread of the pandemic. In a stepwise manner, public transport stopped, and various inter-dependent businesses eventually reached stagnancy.

A natural repercussion to the nationwide lockdown is that almost all businesses are suffering heavy economic losses. Businesses do not have enough resources to spend on media advertisements and will restrict and even cancel pre- decided ad campaigns to curtail their losses.

The FM broadcasters could not procure enough media advertisements revenue from private sector, which is the prime source of its income and funding. This in turn, further caused unsustainable losses to the FM radio industry The impact on advertisement revenues can be seen from the table below:-

(INR figures in crores)

Financial Year	2019-20	2020-21	2021-22	2022-23 estimate
Advertisement Revenue (Private FM)	2360	1160	1650	1700 to 1800

c. Furthermore, given the country-wide lockdowns, which continued from 2020 through 2022 in three different phases, the radio broadcasters **also lost revenue-earning opportunities due to cancellation of on-ground events for more than 3 years, which is a secondary source of income for radio broadcasters**

d. Many advertisers from sectors like retail, education , property etc, which were the major source of ad-revenues for radio stations in smaller cities and towns, stopped advertising due to the pandemic lockdowns.

e. Despite the cancellation of events, advertisements and decline in advertisement investments on the radio by businesses, the private radio broadcasters had to continue their businesses with severe losses and by making payment for fixed costs, including tower rentals and license fee payments to the Government, payment of salaries to employees, payment of fee / royalty for content/ music acquisition. It is also noteworthy that **despite Covid-19 being a 'Force Majeure Event'** which directly and materially affected businesses and performance by radio broadcasters under the GOPA entered with MIB, **the Government did not provide any relief or reduction in terms of fee payments and demanded late payment interest from the broadcasters.**

f. Despite the losses, during the pandemic emergency, FM Radio continued to work at huge losses, and in fact played both a very extensive and intensive role in keeping the public engaged in safety and health measures, and keeping them hopeful and entertained during various lockdown. **The total estimated broadcast hours devoted to Covid 19 related broadcasting during pandemic is approx. 60000 broadcast hours** , which in terms of average time value would translate to about Rs 250 crores, even at rates of Bureau of Communication, which are much below market rates. Therefore even at a time of huge losses to the stations and shareholders, FM Radio fulfilled its responsibility to the Nation in a very exemplary way.

g. FM Radio has been the last bastion of communication standing during disasters on many occasions. At times, temporary broadcasting systems have been set up overnight by our engineers to ensure that communication remain alive. Many of fm radio stations have been awarded recognition and Awards by various State Governments for the same, including for example Radio Chokolate in Odissa cyclone , and Red FM 'during Chennai floodings.

h. In spite of the tremendous work done in collaboration with Central Government during Pandemic (through coordination whatsapp group Radio4india), Central Government has declined to help FM Radio in spite of various requests and SOS. Though it did kindly allow an interest free delay of license fee payment of Quarter 1 2020-21 by 3 months, further delays were however charged interest (12 percent pa by Min of I&B & 18 percent pa by Prasar Bharti).

i. 3 stations closed down due to pandemic. Another 60 stations risk closure as they have no financial backing for the huge losses.

Radio stations which shut down due to financial impact of COVID-19 pandemic:

- i. Odisha TV FM station in Bhubaneswar
- ii. Odisha TV FM station in Cuttack
- iii. Sarthak Films, Bhubaneswar

J. Radio has played important roles in social welfare. In a decade long engagement association with Unicef to address child deaths due to non vaccination, the campaigns run by radio ,had its contribution in reduction of the number of child deaths per day in India, which reduced from 5500 per day to a few hundreds at present.

k. Citizens have appreciated Radio, and its listenership grew substantially during pandemic and thereafter . It also became the most trusted traditional Media ,even before TV and Print.

l. It is noteworthy that in the past three years, the combined effect of the economic slowdown owing to COVID-19 pandemic, high license fees, high recurring infrastructure costs, high music royalty costs, declining ad-revenues and lack of any relief granted by the government to the industry, has severely affected the private FM radio industry.

Radio revenue in FY24 is expected to be only 67% of Pre-Pandemic numbers as FICCI Report, 2022.

m. **Radio is a free-to-air medium where revenues are purely dependent on advertisement revenues. It has been adversely affected due to the influx of digital platforms.** Much of the advertising spends are now on digital mediums thereby impacting the revenue potential of FM Radio adversely. **This is also because of the limitation of being audio-only medium with limited FCT inventory available with FM radio operators,** as the broadcasters need to have to balance of music and ad content to retain their audiences. Many digital platforms have also catalyzed the closure of FM radio receptivity on mobile sets, so that they have no competition.

n. It is noteworthy that as per the FICCI Report, 2021, radio industry will take beyond four years to regain the financial position that existed in 2019 (pre-pandemic).. It is also pertinent to note that **as per Pitch Madison report 2023, CY 2023 forecasted Radio share is 2.3% and Digital share is 41.3%!**

o. Following are the Ernst and Young report estimates given in tabular form which clearly shows how the pandemic as well as massive growth of digital medium has impacted the traditional media including Radio:

	2019	2020	2021	2022E	2024E	CAGR 2021-2024
Television	787	685	720	759	826	5%
Digital media	221	235	303	385	537	21%
Print	296	190	227	241	251	3%
Online gaming	65	79	101	120	153	15%
Filmed entertainment	191	72	93	150	212	32%
Animation and VFX	95	53	83	120	180	29%
Live events	83	27	32	49	74	32%
Out of Home media	39	16	20	26	38	25%
Music	15	15	19	21	28	15%
Radio	31	14	16	18	21	9%
Total	1,822	1,386	1,614	1,889	2,320	13%

All figures are gross of taxes (INR in billion) for calendar years | EY estimates

To summarize:

i. The covid pandemic has caused huge revenue losses to FM Radio. It may take another 2 years (upto 2025) to recover from this and reach pre covid level revenues as can be seen from the data.

- ii. The impact of above has caused huge losses to the FM Radio sector that have led to employment losses, closure of a few stations and it is now emerging that over 50 more may close down due to lack of financial support and lack of buyers for FM Radio as selling would be only alternative to closures.
- iii. Extension of license period will give incentive for shareholders, stakeholders and bankers to infuse finance and thereby help this Media Sector survive and cope up with the earning lost during the past 3 years.

In view of the above, it is suggested that the license period under Phase III Policy Guidelines may be extended by at least another three years.

Q3. Is there a need to review the present Policy guidelines as regards the News and current affairs on private FM radio stations? If so, please provide detailed justification, including the additional compliance/ reporting (if any), duration of news and current affair programmes and method of effective monitoring may be suggested.

AROI Recommendation

Yes. There is a need to lift the restriction on broadcast of news and current affairs on private FM radio stations. As per the existing rules, FM radio broadcasters can only air AIR bulletins in 'exactly the same format'. This is an unfair situation in an age where private television channels and the digital mediums, though unregulated, are allowed to freely broadcast news and current affairs programmes.

Sports related broadcast, including live coverage of National and International sport events, should also be allowed on FM Radio.

Background and Justification

- a. In 1995, the Supreme Court of India, in *Secretary, Ministry of Information and Broadcasting v Cricket Association of Bengal (CAB decision)*, declared that airwaves and frequencies were public property. In a parallel development, All India Radio (AIR) commenced FM broadcast, wherein some slots were given to private producers. In 1999, the Government rolled out a policy for 'Expansion of FM Radio Broadcasting Through Private Agencies (Phase I)', which allowed fully-owned Indian companies to set up private FM radio stations, with a restriction that no news and current affairs content should be carried by the permitted channels.
- b. After the Phase I guidelines, the Government sought to reformulate its policy, and accordingly set up the Radio Broadcast Policy Committee in 2003, which inter alia, recommended that the ban on curating and broadcasting news imposed on radio stations be waived off on several grounds. First, the report noted that the policy in respect of radio broadcasters varied from the policy for print and television broadcasters. Second, the Committee pointed out that the objective of privatization of the radio sphere was to promote diversity of content and provide information, and yet these were being curtailed by the ban.
- c. These recommendations were echoed in the 2004 Telecom Regulatory Authority of India's (TRAI) Consultation Paper, which noted that the promotion of broadcast of news on radio channels could be a means to promote local content on channels. Additionally, the paper also noted that, as a safety precaution, the channels should be made to adhere to the AIR Code, which lists the types of content that cannot be broadcast through AIR, including criticism of friendly countries, attack on religion or communities, and so on.
- d. Despite these developments, in 2006, when the scope of the policy for setting up community radio stations was broadened to include non-profit organizations, it still expressly excluded

individuals from setting up community radio stations and prohibited the existing stations from broadcasting news and current affairs completely. The latter prohibition was also repeated in the Grant of Permission Agreement (GoPA) for community radios.

- e. Similarly, in 2005, the Government liberalized some regulatory aspects of radio broadcast with the Phase II scheme on FM Radio, but retained the blanket ban on broadcast of news and current affairs. The same is repeated in the GoPA for establishing, maintaining and operating community radio stations, released in 2006.
- f. In 2008, TRAI considered the issue again, in greater detail, in its 2008 Consultation Paper deliberating on issues regarding Phase III policies for private FM broadcasting. It was noted that the Federation of Indian Chambers of Commerce and Industry (FICCI) was of the opinion that broadcasters must be allowed a particular slot to broadcast news, on the basis that the same is allowed on private television channels, the internet, and newspapers. FICCI also shed light on concerns of accessibility, highlighting that access to newspapers, TV sets, and/or cable connections require a certain level of literacy. TRAI, however, also noted that due to the 'exhaustive coverage' possible through FM radio broadcasts, news on the radio had the potential to create an immediate major impact, which made corrective action and damage control difficult. In light of the same, TRAI recommended that '*news and current affairs must not be permitted till [an] effective monitoring mechanism is put in place*'. As a compromise, TRAI suggested that radio broadcasters could be allowed to broadcast the 'exact same news and current affairs content' already aired by AIR or Doordarshan or Press Trust of India.
- g. The Phase III policies for FM Radio, published in 2011, followed this stance and permitted FM Channels to carry the AIR news bulletin, unaltered, on their channels. The blanket prohibition on news was further relaxed to some extent since the new policy deemed certain items as 'non-news', and thereby permitted FM channels to broadcast the following categories of content:
 - (a) Information pertaining to sporting events excluding live coverage. However, live commentaries on local sporting events may be permissible;
 - (b) Information pertaining to traffic and weather;
 - (c) Information pertaining to coverage of local cultural events and festivals;
 - (d) Coverage of topics pertaining to examinations, results, admissions, career counselling;
 - (e) Information regarding employment opportunities; and
 - (f) Public announcements pertaining to civic amenities like electricity, water supply, natural calamities, health alerts, etc. as provided by the local administration.Broadcast of other forms of news or current affairs by private FM radio channels continued to be prohibited.

- i. The continued restriction on broadcast of news and current affairs content on radio is violative of our members' right under Article 19(1)(a) of the Constitution, which encompasses not just the right to disseminate information but also the right to receive information. In the CAB decision, the Supreme Court held that the right of dissemination included the right of communication through any media: print, electronic or audio-visual. The freedom of the press also implies that the choice of what is to be printed in the editorial or the news-columns of a newspaper should rest with the editor of the paper, and not any public official or even the Government. This can be extended to the radio stations as well, so far as their news dissemination function is concerned. By dictating the types of information and news items that could be broadcast, the Government is therefore indirectly interfering with the autonomy

of these channels; almost akin to an interference with the editorial policies of a newspaper, which in itself is a problematic exercise.

j. The reason which has always been cited for the continued restriction is the accessibility and reach of radio, which necessitates stricter regulation of speech on the medium. In fact, the aforesaid reason was cited by the government in its counter to a PIL filed by the NGO Common Cause praying for the quashing of this restriction, arguing that the same amounted to a reasonable restriction within the contours of Article 19(2). However, we seek to highlight that this issue has been squarely addressed in the CAB decision, where the Supreme Court considered '*whether there is any distinction between the freedom of the print media and that of the electronic media such as radio and television, and if so, whether it necessitates more restrictions on the latter media*'. The Court clearly stated:

i. *The virtues of the electronic media cannot become its enemies. It may warrant a greater regulation over licensing and control and vigilance on the content of the programme telecast. However, this control can only be exercised within the framework of Article 19(2) and the dictates of public interests. To plead for other grounds is to plead for unconstitutional measures.*

k. This position was later affirmed by the Supreme Court in 2015 in the *Shreya Singhal v Union of India* judgement where the medium in question was the internet. In fact, in the case, the Additional Solicitor General made an argument similar to the one advanced by the Government in the Common Cause petition by noting, inter alia, that '*rumours having a serious potential of creating a serious social disorder can be spread to trillions of people without any check [on the Internet,] which is not possible in case of other mediums*', and thus, '*a relaxed standard of reasonableness of restriction should apply*' when it comes to regulating speech on the internet. The Supreme Court, however, rejected this argument. The decision cited the CAB decision and unequivocally stated that they did '*not find anything in the features outlined by the learned Additional Solicitor General to relax the Court's scrutiny of the curbing of the content of free speech over the internet.*'

l. It is also pertinent to appreciate the Supreme Court's reasoning for the dictum laid down in the CAB decision, where the Apex Court noted that: [*t]he right to use the airwaves and the content of the programmes [...] needs regulation [...] to prevent monopoly of information and views relayed, which is a potential danger flowing from the concentration of the right to broadcast/telecast in the hands either of a central agency or of few private affluent broadcasters.* Despite the passage of twenty-three years after the judgment, AIR continues to have a monopoly in the dissemination of news and current affairs on radio. This is clearly detrimental to the idea of a normative plurality of opinion that the Supreme Court had espoused through its judgment in Secretary.

m. In *Indian Express Newspapers v Union of India*, the Supreme Court held that '*the freedom of the press rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public.*' Applying this interpretation to the present case, it could be said that AIR's monopoly over news prevents the listeners of radio channels from accessing diverse sources of news. This is problematic when one considers that in the Indian context, freedom of speech and expression has always been valued for its instrumental role in ensuring a healthy democracy, and its power to influence public opinion.

n. Further, we seek to highlight that the AIR broadcast is done in merely 20-30 major languages, through only 47 stations around the country. Hence, the current government regulation disproportionately affects particular communities. As the TRAI Consultation Paper pointed out in 2008, acquiring news from newspapers and television channels requires certain levels of literacy. Thus, for the illiterate and socio-economically disadvantaged citizenry, news on radio may be the only viable source of news. These communities are being

forced to rely on a single, centralized and regulated broadcast, which may be carrying irrelevant content in an incomprehensible language. Unlike AIR, private FM radio operators have a separate radio station in each of the 388 locations in the country across more than 100+ cities. This gives them the unique advantage over any other medium, to communicate real-time in local language and even dialects, giving radio an unparalleled local connect and making them best poised to create and broadcast news most relevant to local audiences, in the language they best understand.

o. It is also pertinent to note that all other mediums of broadcast *viz.*, print, television (regulated), All India Radio or digital (unregulated) are permitted to broadcast news and current affairs, subject of course, to adherence of certain mandatory requirements. Private FM broadcast has an enormous reach, good understanding of the audience in the remotest corners of the country and a great connect with the masses. It is one of the best placed mediums to disseminate important news and current affairs content free-of-cost. In view of the above, there is no logical explanation for the embargo on radio stations broadcasting news and current affairs content. The permission will only create a level playing field for the medium.

p. Radio channels perform an important public service function, and are able to reach the remotest corners of the country. Radio broadcasters, through their FM radio stations, act as a vehicle of social upliftment and education for the masses. During COVID-19 pandemic, radio broadcasts into homes, workplaces and hospitals provided essential updates on health measures (free booster shots etc.) and provided solace to scores of people cut off from their loved ones. The importance of radio broadcasting through FM radio stations to ensure timely and authentic information dissemination is also noteworthy from a perusal of MIB's letters dated 23.03.2020 and 20.05.2021. In view of the public interest aspect involved in radio broadcast, it is important that the freedom of speech and expression of radio channels not be curtailed in relation to broadcast of news and current affairs content.

q. Permitting radio operators to broadcast news content can also help in easing the music royalty burden on radio broadcasters. Currently, private FM broadcasters are heavily dependent on broadcast of music content, which entails crores of rupees of royalty payments to music licensors. This is because the royalty payouts are majorly based in 'per needle hour' basis i.e. depending on number of hours of music played in an hour/day/month. If broadcasters have the option of running variety of content other than just music i.e., news/current affairs programs, this dependency can ease and the expenditures can be controlled to a large extent, thus indirectly helping the ailing industry.

Summary

The restriction/ban on broadcast via radio of news and current affairs content ought to be reviewed and relaxed. In order to combat any potential misinformation, radio operators may be permitted to set up a self-regulatory body in the likeness of the NBSA, which would administer a code of standards for news aired on these channels. To ensure that a uniform standard of journalistic ethos is preserved across all mediums of news, this code would be emulating the existing best practices. Among other things, we recommend the code to contain pointers regarding:

- Impartial and objective reporting.
- Ensuring that crime reporting does not titillate or glorify crime and violence.
- Safeguarding the privacy of the individual subjects of the news.
- Refraining from advocating superstitions and unscientific beliefs.
- Refraining from any content that pertains to unlawful acts under article 19(2)

Q4. Is there a need to mandate that all the Mobile Handset manufactured/ sold in India will require to have an in-built FM Radio receiver? Please provide detailed justification for your comments.

AROI Recommendation:

There is an urgent and pressing need to mandate that all the Mobile Handset manufactured/ sold in India should have an in-built and active FM Radio receiver for the reasons explained below.

Background and Justification

- a. We agree with the observations of the TRAI that (i) FM radio acts as a major fillip in serving far flung areas of the country; and (ii) in accessible areas during natural emergencies.
- b. As per data published by Ministry of Information and Broadcasting, as of August 15, 2022 there are 388 operational private FM Radio stations in 100+ cities in India serving more than 70% of the Indian population. **FM Radio broadcasting in India is not only a medium of entertainment but also a vehicle of social upliftment and education. Radio stations have been considered as enablers and information providers that not only create awareness among people but also assists in authentic information dissemination.**
- c. **According to a survey was conducted by consumer insights firm Toluna India, FM radio listenership in Tier-II and Tier-III markets is on the rise.** One of the key findings of the survey was that working professionals are big consumers of FM radio, with nine out of 10 such respondents saying that they regularly listen to the radio. As much as two-thirds of the students surveyed also claimed to be regular radio listeners. The survey results found that **mobile phones and car music systems are the most used devices for radio consumption.**
- d. Today, the mobile phone has become ubiquitous and very often referred to as an extension of the human body for the multitude of utilities that it provides within one device. In fact, the TRAI has deemed it fit to also consider a consultation on convergence of regulations in view of the convergence of technologies for content and broadcast which is proceeding parallelly.
- e. Further, as noted by the TRAI, from accessibility of entertainment perspective, **FM radio was privatized with the sole view to reach the common man and especially in the far-flung areas and Tier C and D cities and villages.**
- f. **FM radio also plays an important role as means of dispensing information during natural disasters.**
 - As we all know. the most commonly available and used device by majority of the population is a mobile device. Communication over these devices can happen through mobile networks i.e., voice or messaging services or through internet connectivity. However, **the world has experienced even though mobiles, being widely available with people are the fastest mode of communications, the mobile network and even the internet connectivity/Wi-fi communications are known to fail during large scale disasters such as Tsunamis, earthquakes, hurricanes etc.. This can happen due to various reasons like high call traffic causing networks to be jammed, power cuts etc.**
 - **During a large-scale disaster, people who are trapped under collapsed buildings or landslides may have a large chance to survive if they are rescued in 72 hours.**

However, reaching those in trapped in 72 hours is challenging because communication networks, fixed or mobile, are usually down during disasters, making SOS message dissemination extremely difficult. For example, in Jiji earthquake, Chunghwa Telecom, the largest telecommunication operator in Taiwan, took 15 days to restore the whole mobile communication systems. Another example is, **all carriers halted communication service operations of up to 29,000 base stations in the great east Japan earthquake.** As a result, people in the disastrous area were unable to call for help, making it difficult to locate them thereafter. Thus, it is crucial to establish a system of emergency communication in order to timely deliver SOS messages to rescue authorities.

- *"This is a no-brainer in terms of public safety,"* said Michael McEwan, director of the North American Broadcasters Association, or NABA, which drafted the opinion the ITU adopted. *"You look at what happened during the recent hurricanes. Broadcast radio is the only thing that kept going."*
- (Link- <https://www.cnet.com/tech/mobile/everything-you-need-to-know-about-fm-radio-on-your-phone/>)
- **When most other modes of communication, including mobile networks fail, radio has been shown to be a reliable mode of communication, as was seen in the aftermath of Hurricane Maria in Puerto Rico,** where officials relied on FM radio stations to help in coordinating the pickup and delivery of relief items from ports to communities throughout the island¹.
- Unlike TV, FM radio transmission is local in nature, transmitting hyper-local information within a 72-100 kilometer radius. A disaster in one city or district in the country cannot be handled via television, because satellite TV has a national footprint. On the other hand, **FM radio is ideal for providing a minute-by minute update on the evolving situation in the concerned city or district. Further, Radio Jockeys (RJs) speak in local-vernacular languages and hence, can communicate with the population more effectively.**
- **FM radio has numerous advantages that make it suitable for broadcasting crucial messages and information to masses.** First, **FM is much more energy efficient than WiFi and Bluetooth.** FM receiver consumes around 15 mW, while Wi-Fi and Bluetooth typically consume over 400mW and 150mW, respectively. In addition, since low frequency radio waves are less sensitive to the weather/terrain conditions, FM signals are less affected by these minor influences. Finally, FM signals penetrate obstacles more easily than Wi-Fi or GSM since the attenuation of radio waves by obstacles increases with frequency. The aforementioned considerations suggest that FM radio broadcasting has a number of inherent advantages over the other communication systems².

¹ Karl Vick, *A Land They No Longer Recognize: Desperation and Resilience in Hurricane Battered Puerto Rico*, Time Magazine, October 2017, Accessed online at <https://time.com/a-land-they-no-longer-recognize/>

² Yu-Jia Chen, Chia-Yu Lin, and Li-Chun Wang, *A Personal Emergency Communication Service for Smartphones Using FM Transmitters*, ResearchGate, September 2013, Accessed online at: https://www.researchgate.net/publication/261380620_A_personal_emergency_communication_service_for_smartphones_using_FM_transmitters

- It is a well-known fact that FM broadcasting uses frequency modulation (FM) for high-fidelity broadcasts of music and speech. Broadcasting FM radio is popular and well-established in ubiquitous worldwide coverage. Police, fire, and other rescue services also use FM radio on special frequencies. Most rescue workers carry a radio receiver/transmitter with them to receive a call to communicate with emergency relief operations.
 - Since FM signals are broadcast from a single transmitter, it is only necessary for that single transmitter to remain functional during disasters. **In India, most FM transmitters are located inside well-protected and well-maintained facilities.** FM content is produced in studios and relayed to transmitters using either STL "links" or internet broadband facilities. If, under extreme conditions, this link between studio and transmitter goes down, **it takes but a few moments to move the content generation to the transmitter site itself.** Also, **it is pertinent to note that, all FM broadcasters are expected to maintain emergency broadcast studios inside transmission facilities.**
 - **Even from a quality of content perspective, merely sending text message to people via mobile networks was inadequate.** During the Covid-19 pandemic, it was necessary to educate people about the precautions to be taken to prevent the spread of the deadly virus. What to do if Covid symptoms emerged, who to contact in emergency, how to isolate and quarantine, where to do Covid testing etc. These were important communications that could be best communicated via an RJ talk or interview on FM radio, which became important conduits between the authorities and the people.
 - Even the International Telecommunications Union (ITU), a body of the United Nations, has weighed in with its important advisory on FM radio during disasters, stating –

“ In times of emergencies and disaster, radio broadcasting, is one of the most powerful and effective way of delivering early warnings and alerting the public to save lives. Timely, relevant, and practical information to people impacted by a disaster or emergency is a vital form of humanitarian assistance. Broadcasting is particularly useful in situations where physical access is difficult and aid responders may take several days or weeks to reach affected communities. Appropriate information and advice, delivered in a user-friendly way, can help people cope with the crisis and mitigate immediate threats to their well-being. Direct communication via radio can also help to reduce the sense of isolation and helplessness that crisis-affected communities and individuals often experience. As the world and radio change together, ITU will continue to serve as the steward of global airwaves, ensuring we can connect to one another safely, sustainably, and innovatively for centuries to come.”

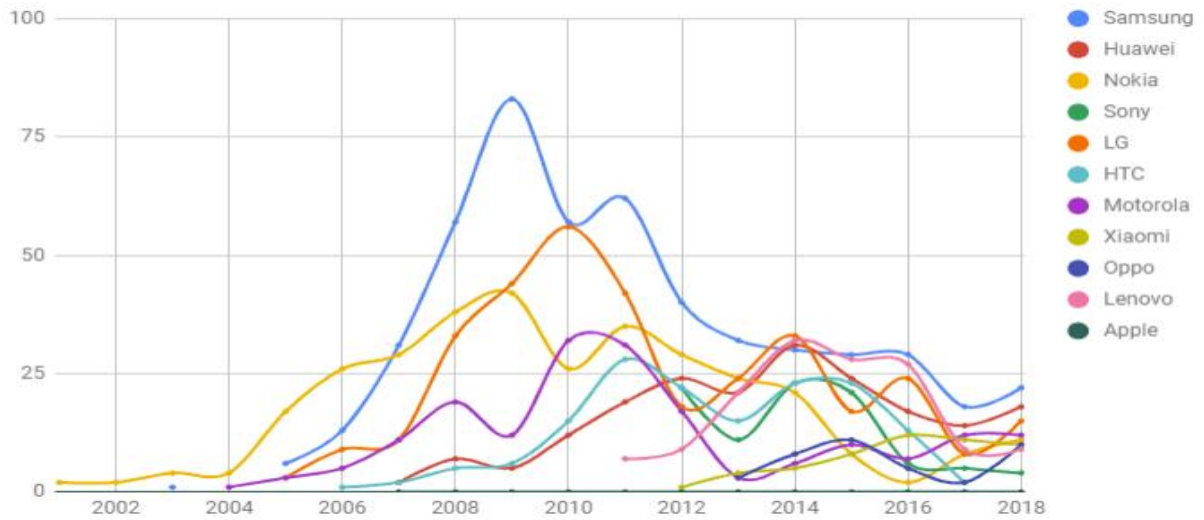
(Source: <https://www.itu.int/hub/2021/02/celebrating-the-resilience-of-radio/#:~:text=In%20times%20of%20emergency%20and,vital%20form%20of%20humanitarian%20assistance>).
- g. The ubiquity of FM signals is another critical feature during disasters. A listener can listen to FM radio over various devices - mobile phones, car stereos, ordinary transistors, modern smart speakers like Alexa and Google Home and even on the TV set. Even if the battery of the

mobile phone dies, it is possible to listen to FM radio on other devices. This is a truly unique feature that becomes critical during disasters.

- h. Requiring mobile handset manufacturers to mandatorily insert an FM chip will necessarily expedite achievement of the aforesaid goal. Among the various reasons that this will happen is the convenience of receiving such the radio broadcast signals without having to pay for an extra device. While the radio set may no longer cost as much as it used to in the past, however, from the perspective of the audience that the government is trying to provide entertainment to, it does constitute a cost burden.
- i. Further, while music and entertainment is more accessible via digital OTT platforms, the said platforms are attuned more for the Tier A and B cities and audiences who look for choice and content that suits their tastes. In contrast, the populace that is in villages and far-flung areas, in their current demographic and access potential, merely need entertainment without having to navigate the myriad choices of OTT platforms and the content that they offer. Radio receivers on their mobile will solve that need.
- j. Lastly, the international experience from similarly placed countries provides another sound reason to make this requirement mandatory.
 - **Major US carriers now allow FM chips** to be turned on. Manufacturers like Samsung, LG, HTC, and Motorola have activated FM radio on their phones.
 - **Mexico's Federal Telecommunications institute has approved a new rule requiring smartphone manufacturers to activate the FM chip embedded in all modern mobile devices.** The move came in 2017 after months of pressure from the National Chamber of Radio and Television Industry (CIRT) and makes Mexico the first country in the world to enact such legislation.
 - **Brazil** - From 1 June 2021, mobile phones manufactured in Brazil must integrate FM radio, to allow those in areas not served by the internet to get information for free. The government sees this as an opportunity for those who live far from large urban centers, where the mobile network signal is weak and FM stations are well received. As many as 40 million Brazilians do not have access to the internet, but almost all of them have a mobile phone.
- k. **Reasons for disabling FM receivers in smartphones:** The possible issue that could arise in this context is the “forcing” of mobile handset manufacturers to mandatorily provide for such a chip. It is pertinent to note that music OTTs started in India sometime around 2012. During the period between 2008 – 2010, mobile phone models carrying FM radio tuners were at an all-time peak. Surprisingly, the decline in this feature being made available in mobile phones started after 2012, falling to abysmal levels by 2018, particularly with Apple phones having no FM functionality at all. The following chart demonstrates the decline³:

³ Peter, *Counterclockwise: FM radio is past its peak*, GSM Arena, December 16, 2018, Accessed online at: https://www.gsmarena.com/counterclockwise_fm_radio_is_past_its_peak-news-34707.php

Models with FM radio



As is evident from the above, **the market a sharp decline in mobile handsets having FM functionality from 2014, around the same time when music OTTs were gunning for popularity.** It is important to note that OTT services like Apple Music, Amazon Music, Spotify, Wynk etc. started entering Indian markets around this period with their applications being pre-loaded on various mobile handsets. There cannot be a clearer indicator of the restrictive trade practices of these large international players to drive a popular free service like FM Radio out of the mobile market, so that people who wish to consume music are first addicted to free music streaming from these music OTT apps, which slowly tuned into subscription based model, compelling mobile users to pay for more Data from telecom service providers and also subscription fees to music OTTs due to lack of option of free services of FM radio broadcast.

1. Here is another table based on internal research done by our members through their marketing teams in year 2019, which shows how the high-end smartphones stopped carrying FM functionality:

Price	Without FM (in nos)	Without FM as % of Total	With FM (In nos)	With FM as % of Total	Total Nos	Total as %
upto 5k	5	3%	19	11%	24	13%
5k-10k	33	18%	34	19%	67	37%
10k-15k	16	9%	21	12%	37	21%
15k-30k	17	9%	19	11%	36	20%
>30k	14	8%	1	1%	15	8%
Grand Total	85	47%	94	53%	179	100%

- m. **This table clearly indicates that basic models (which do not carry pre-loaded music apps) still have FM tuners and that high-end mobile phones (smartphones) which carry pre-loaded music apps, use internet (4G) data) and are most used in Tier I cities (population who**

can afford subscription based music OTT services the most) **have stopped carrying FM functionalities.**

- n. It is pertinent to highlight here that initially, standalone radio receivers were used for listening to FM Radio channels. With the advancement of technology, FM radio receivers were integrated with Mobile handsets doing away with the need for standalone radio receivers. This enabled people from all strata of society have access to FM Radio channels. Availability of radio receiver on mobile handsets enables the poorest of poor in connecting to the radio without needing to spend on an additional device. Radio reception is available free of cost to the user without necessitating subscribing to data plan from telecom service providers. As such, availability of FM Radio on mobile phones serves the information, entertainment, educational needs of the underprivileged section of the society.
- o. It can be observed from the above data that how many mobile handsets included an FM Radio application earlier, which was either provided by the mobile handset manufacturer by default or was available for download. However, such applications are no longer available on Google Play-Store or Apple App-Store. This is yet another indicator of the restrictive trade practices carried out by telecom service providers (to increase data consumption by music streaming) and music OTT players (to increase their app downloads and augment their subscription numbers).
- p. Anyone can easily turn the mobile phone into an FM radio if it has an embedded chipset and the proper circuitry to connect that chip to an FM antenna. All you need is an app like NextRadio, which lets you tune into the signal, and something to act as an antenna, such as headphones or non-wireless speakers. (Link-<https://www.cnet.com/tech/mobile/everything-you-need-to-know-about-fm-radio-on-your-phone/>)
- q. Most smartphones even now, include integrated chipsets that offer a variety of wireless technologies, such as Wi-Fi, Bluetooth and FM radio. But until a few years ago, device manufacturers disabled the function of FM reception-- often at the urging of wireless carriers that wanted customers to stream music and podcasts, and consume more data as seen above.
- r. While the technological arguments may be overcome with availability of alternative solutions, the Government may be able to make this more palatable for the mobile handset industry by prescribing it as a condition to avail of the PLI benefits that have been offered to this industry.

Summary

It is in National Interest that FM receivers be mandated on all mobile phones. It will also ensue that not only private radio, but also Government information through All India Radio FM channels reach almost all citizens. At times of National Disaster this may also save multitude of lives.

Q5. Stakeholders may also provide their comments on any other issue relevant to the present consultation.

In addition to the above listed issues, we would also like to humbly request that due consideration may be given to following issues:

- i. **Relief package for FM Radio industry:** We thank TRAI for rightly highlighting the relief packages offered by the various governments across the globe to the pandemic affected FM radio industry in the respective countries. There is no reason why the MIB

should not grant reliefs to the broadcasters who have paid crores of monies in form of license fees to the government over the years.

- We recommend that to help FM Radio Sector survive, a financial package to cover huge losses during Covid period be given as follows:
 - a. Two year waiver of License Fees for coming financial years in addition the the extension of license period itself by 3 years as recommended earlier herein above..
 - b. Waiver of all interest levied on late payments of license fee due to the Covid pandemic.

In view of the financial condition and loss of opportunities for infusing fresh funds as well as no marketability at present for sale of radio stations, a Relief Package from Government would be of immense help.

Please refer to background as listed in Response to Question 1 and 2 above in support of the argument that a relief package as above is urgently required by FM Radio

- ii. Digital Radio - at no additional cost: Many countries have already adopted the Digital radio technology for FM radio broadcast and we believe it is high time that India adopts the technology as well. This will help in improving listener experience due to better sound quality. We suggest that current policy should be amended to permit Digital radio channels at no additional cost to the existing permission holders in a simulcast mode along with Analog Broadcasting. This will boost the health of the ailing industry by increasing opportunities by way of higher ad-inventory, ability to start dedicated channels for news/current affairs (if permitted as be suggestions above.) and consequently benefit the government by way of higher license fee (based on 4 percent of Revenue) once the revenues of the industry are up. Resultantly, this measure will be to benefit of all stakeholders in the industry.
- iii. Permission for slump sale: As you are well aware, the process for a loss making organization to alienate its loss making FM radio station business into a separate entity, under the reorganization permission now available to them, involves a lot of time and procedural hurdles. To counter this, we propose that 'slump sale', which is a well-recognized concept under the Income Tax laws, should be permitted for sale/take-over of FM frequencies. This can help many small broadcasters and even big companies to reorganize their business in quick time and help them to remain profitable.
- iv. Change in Auction Methodology: We propose a change in auction methodology in future auctions for new frequencies, for the following reasons:
 - a. The historical data of the previous auctions, which is succinctly captured in the CP, demonstrates that the figures of frequencies auctioned and actually operationalized are not encouraging.
 - b. During the Phase-I auction, a total of 108 channels in 40 cities were offered out of which bid amount was paid only for 37 channels and only 22 channels became operational, of which one channel had closed down subsequently. The private FM Radio industry under Phase-I reported losses largely because of the high bid amount at the time of auction.
 - c. During Phase II auctions - A total of 337 channels were put on auction across 91 cities. Successful bids were received for 284 channels. After scrutiny, permission was given for operationalization of 245 channels covering 87 cities. Out of these

245 channels, 222 channels became operational (+21 channels which migrated from Phase I).

- d. During Phase III - 135 channels in 69 existing cities were put up for auction in Batch 1 of the auctions. 96 out of 135 private FM Radio channels in 55 cities were successfully auctioned. Subsequently, MIB commenced the auction of the second batch of Private FM Radio where 266 channels in 92 cities were offered including 227 channels in 69 new cities and 39 channels in 23 existing cities. Only 66 channels in 48 cities were successfully bid in e-auction of second batch of FM Radio.
- e. From the above statistics its evident that the success rate of auctions has been always low, primarily due to high Reserve Price and high license fees charges by the government. The chances of any further auctions being successful are completely bleak considering the current state and struggles faced by the existing players, which are fighting for survival. Hence it is necessary to drastically modify the future auctions, by incentivizing existing and new players with waiver of license fees completely, as the efforts towards reducing Reserve Prices have not succeeded.
- f. We believe that this will be the only factor that can incentivize existing and new players to bid for additional/new frequencies. The result can be successful allocations, higher value bids collection for the government and thus upfront collection of monies for the government, even the interest on which can be more than the license fee that may be paid by the players over the term of the new licenses.

Lastly, we would like to highlight the point rightly covered in the consultation paper regarding power of MIB to modify the extant policy viz.: *The provision in Phase III FM Radio policy at Clause 30.3: **The Government shall have the right to modify at any time the provisions of these guidelines and/or the terms and conditions of permission, if in the opinion of the Government it is necessary or expedient to do so in public interest or in the interest of the security of the State. The decision of the Government shall be final and binding in this regard.***"

This is an over-arching provision which empowers the Ministry of Information and Broadcasting (MIB) to accept and implement TRAI's recommendations pursuant to CP on all points of consultation and removes any bar or impediment in the policy wordings contrary to it. The addressing of the issues listed herein above would be undoubtedly in public interest for the reasons explained, as the revival of FM industry with also benefit the consumers of FM radio by ensuring access to free entertainment as well as socially relevant content that FM radio provides, catering to every strata of the society. It is also noteworthy that radio broadcasters, through their FM radio stations, serve a larger public interest by acting as a vehicle of social upliftment and education for the masses. The role performed by the radio industry was even more impactful during the lockdown occasioned by the COVID-19 pandemic, during which time 82% of the nation's population tuned into FM Radio for credible information. The importance of radio broadcasting through FM radio stations to ensure timely and authentic information dissemination is also noteworthy from a perusal of MIB's letters dated 23 March 2020 and 20 May 2021

We sincerely believe that there could not be a more opportune time to press this provision into service to make the necessary modifications in the extant policy to address these critical issues. We thank you for the opportunity given to our members to put forth their views and suggestions on the captioned subject and hope the same are considered favorably.

Thanking You

Yours sincerely,

A handwritten signature in purple ink, appearing to read 'Uday Chawla', with a small flourish at the end.

Uday Chawla
Secretary General
AROI