

Bharti Telemedia Ltd.

Airtel Center, Plot No. 16,
Udyog Vihar, Phase - IV,
Gurugram - 122 015
Haryana, India

www.airtel.in
call+91 124 4222222
fax +91 124 4243252

dth services



RP/FY 21-22/075/105
August 24, 2022

To,
Mr. Anil Kumar Bharadwaj
Advisor(B&CS)-II
Telecom Regulatory Authority of India,
Mahanagar Doorsanchar Bhawan,
Jawahar Lal Nehru Marg,
Old Minto Road,
New Delhi-110002

Sub: Response to TRAI Consultation Paper on “Renewal of Multi-System Operators (MSOs) Registration”

Ref: TRAI Consultation Paper dated July 20, 2022.

Dear Sir,

In reference to the captioned consultation paper, we are pleased to enclose our response for your perusal.

We hope that our submissions will merit your kind consideration.

Thanking You
Yours Sincerely
For Bharti Telemedia Limited

A handwritten signature in blue ink that reads 'Rahul Vatts'.

Rahul Vatts
Chief Regulatory Officer &
Authorized Signatory
Encl: As mentioned above.

Copy to:

Principal Advisor(B&CS), TRAI.

TRAI Consultation Paper on “Renewal of Multi-System Operators (MSOs) Registration”

Preamble

We would like to thank the Telecom Regulatory Authority of India (TRAI) for giving us an opportunity to submit our comments on the Consultation Paper on “*Renewal of Multi-System Operators (MSOs) Registration*”, released on July 20, 2022.

At the outset, we wish to state that the MSOs compete in the same services and market as done by players like DTH, IPTV, and convergence of technologies, platforms and consumer behavior has necessitated convergence in conditions and obligations among competing DPOs. It is therefore, important to recognize that **the rules of entry, operations and renewal should be consistent for and across all players (DPOs).**

In view of the above we submit as under:

1. This consultation gives the TRAI and the Licensor an opportunity to holistically review the licensing framework for DPOs and inter-se bring necessary parity w.r.t various conditions and obligations.
2. The period of extension/renewal of License/ registration for the MSOs should be prescribed as ten (10) years, consistent with other DPO license. Further, the renewal conditions for MSOs should be similar to the other competing DPOs e.g. DTH.
3. The DTH Operators pay one-time fee of Rs. 10 Crore at the time of registration whereas MSOs pay only Rs. 1 Lakh. This creates a discriminatory and non-level playing field issue for DTH vis. a vis MSOs. Therefore, to maintain level playing field among the competitive platforms (DPOs), there should be a parity in the fees paid by all DPOs. In the event the fee of the MSOs are retained or further brought down, the similar relaxation should be extended to other DPOs like DTH as well.
4. The time window before the expiry of MSO registration, within which the MSO shall apply for renewal of the MSO registration may be kept as six (06) months prior to the date of expiry of registration.
5. As a good practice that gives predictability and confidence to investors, there should be a time-bound period within which licensor should decide upon renewal applications
6. We further recommend that there should be a defined mechanism to continuously monitor the compliance of MSOs with such regulations and conditions e.g. through empaneled auditors or an appropriate monitoring framework.
7. In case of non-application for renewal by an MSO, the registration / license of the MSO should be deemed automatically expired, and the Broadcasters should be directed to disconnect the TV channels for such MSOs whose registration has expired.
8. The DTH industry is also facing serious headwinds from Free dish, and unregulated platforms like OTTs, and there is a pressing need to bring ‘regulatory parity’ among all delivery platform operators (DPOs).

TRAI Consultation Paper on “Renewal of Multi-System Operators (MSOs) Registration”

In view of the above submissions, we provide in subsequent section, our response to specific questions as sought by TRAI in its consultation.

Q 3.1 What should be the period of extension/renewal, to be prescribed in the Cable Television Networks (Regulation) Act, 1995. Cable Television Networks Rules, 1994, on the expiry of the initial period of permission of MSO registration? Please elaborate your response with justification.

Airtel Response: The period of extension/renewal of registration for the MSOs should be 10 (ten) years. This should be consistent with other DPOs’ e.g. that of DTH, given both compete in same market for same service. Additionally, the renewal/extension should be linked to certain minimum requirements such as eligibility requirement to be fulfilled by the MSOs at the time of renewal; we provide some criteria in response to Q3.6.

Q 3.2 Whether a one-time fee should be levied at the time of renewal of the MSO registration? If yes, please suggest amount of fee for such renewal to be prescribed in the Cable Television Networks (Regulation) Act, 1995 /Cable Television Networks Rules, 1994. Please provide detailed reasoning for your comment.

Airtel’s Response: Yes, there should be a onetime fee at the time of renewal to ensure seriousness of participants. Currently the DTH Operators are subjected to a one-time payment of Rs. 10 Crore at the time of Registration, whereas in case of MSOs, this amount is Rs. 1 Lakh. **This is hugely discriminatory and has created a non-level playing field for DTH players vis. a vis MSOs.** Hence parity in fee should be maintained at the time of registration and also at the time of renewal/extension.

We submit that in case of any relaxation in any specific condition or obligation to a DPO (e.g. MSO), the same relaxation should be extended and ensured across all DPOs.

Q 3.3 Should a time window be prescribed before the expiry of MSO registration, within which the MSO shall apply for renewal of the MSO registration?

Airtel Response: Yes. It is a desirable regulatory practice that brings consistency, clarity and predictability for any player in the market. Apropos, while we believe that the Licensor may decide an appropriate time window before expiry of MSO registration, on a safer side a 6 months’ window before expiry date. This is also part of renewal in case of other DPOs.

Q 3.4 In case an MSO has applied for renewal, and the final decision on renewal is pending, what should be the provision to ensure continuity of service for the consumers on expiry of previous registration?

Airtel Response: First of all, we believe that the Government should be taking an appropriate decision regarding renewal/extension of any existing registrant/licensee; in a time bound manner. This is a good practice that gives predictability and confidence to an investor and investments. Hence there should be a time-bound period in which Licensors should be required to decide upon such application.

However, in any such case that may require any longer duration, then the licensee should be communicated accordingly and her license may be provisionally continued until a final decision.

TRAI Consultation Paper on “Renewal of Multi-System Operators (MSOs) Registration”

In addition to the above, we recommend that the Licensor should incorporate the following provisions in the registration / license of MSO which it should maintain throughout the registration / license period, whether at the first time registration and/or during the expired period until decision is pending and/or post renewal/extension while ensuring continuity of service for consumers:

- a. Licensing conditions w.r.t foreign equity holding including NRI/OCB/PIO.
- b. Licensing conditions w.r.t minimum Net Worth.
- c. All other eligibility criteria for MSO registration as provided by the licensor from time to time.
- d. Permission holder’s acceptance of all of the terms and conditions of permission as the Government may prescribe by way of policy pronouncements from time to time.
- e. Violation record of any provisions of the Licensing Conditions by an MSO should also be considered during the time of renewal.

Principally, the terms and conditions (T&Cs) of all DPOs should similar given they all compete in same market and offer same services.

Q 3.5 In case an MSO hasn’t applied for renewal before the expiry of its registration:

3.5.1 What should be the status of services by such MSO after the expiry of registration? As per extant guidelines/ regulations an MSO with valid registration only can get the signals of a television channel. Should a broadcaster disconnect the television channels for such MSOs whose registration has expired?

3.5.2 Should existing registered operational MSOs be provided with an extended time beyond the original registration period for applying for renewal? What should be the maximum time after expiry up to which an application for renewal can be entertained by MIB?

3.5.3 Should there be an additional fee for such applications that are received after the expiry of registration period?

Airtel Response: In absence of non-filing of application for renewal by an MSO prior to expiry date, the registration / license of the MSO should be deemed automatically expired. A corollary of the automatic expiry of MSO registration/license will be that the broadcasters should be directed to disconnect the television channels for such MSOs whose registration has expired. This will not only eliminate the non-serious players, but also maintain the hygiene of the registration process.

Q 3.6 Should some qualifying conditions be prescribed for renewal of MSO registration, under which the MSO, along with the application for renewal, shall be required to submit its compliance status with the terms and conditions of registration and the extant regulatory framework?

Please provide the details of:

(i) List of necessary compliances that should be mandatory for considering renewal of MSO registration,

(ii) List of documents, which may include, but may not be limited to, self-certifications, NOCs from TRAI/MIB/licensing authority, audit reports etc. that would be required to be submitted for verification of such compliances at the time of application,

(iii) Any other mandatory requirements for verification of status of compliances of the MSOs before grant of renewal of registration.

TRAI Consultation Paper on “Renewal of Multi-System Operators (MSOs) Registration”

Please elaborate your suggestions with reasons for the mandatory requirement of each compliance in tandem with ease of doing business in the television distribution network.

Airtel Response: Yes. We agree that the MSOs must be mandated to submit a compliance certificate w.r.t various regulations and orders issued by licensor and TRAI, specifically the ones highlighted by TRAI at Annexure-III to the extant consultation paper. There should be a flexibility to incorporate changes in Annexure-III and/or the compliance certificate as and when the regulations are modified.

We further recommend that there should be a defined mechanism to continuously monitor the compliance of MSOs with such regulations and conditions e.g. through empanelled auditors or an appropriate monitoring framework.

Q 3.7 Should there be any additional terms and conditions for renewal of the permission for MSO registration? Please elaborate.

Airtel Response: Yes. We suggest prescribing minimum conditions to be followed not just at the time of renewal, but also at the time of registering an applicant. This is important to bring serious players and be consistent with the principle of same service same rule, among competing market participants i.e. DPOs. We accordingly recommend the following conditions that should be introduced for the MSOs to ensure regulatory parity among all the DPOs:

a. **Financial Obligations:** The MSOs and DTH / HITS players today have very different financial conditions to operate and compete in the same market, as highlighted in the table below:

DPOs	DTH	HITS	MSO [Cable Operator]
Entry Fee	Rs. 10 crores	Rs. 10 crores	Rs. 1 Lakh one-time registration Fee
Annual LF	8% of Gross Revenue	NIL	NIL
BGs	Amount equivalent to estimated sum payable equivalent to LF of 02 quarters and other dues not otherwise securitised	Rs. 40 crores	NIL

Therefore, all DPOs i.e. MSOs, DTH among others should be brought at par in terms of regulatory parity w.r.t financial obligations / conditions.

- b. **Other Conditions:** we further recommend the following conditions to be included:
- i. Conditions w.r.t foreign equity holding including NRI/OCB/PIO.
 - ii. Conditions w.r.t minimum Net Worth.
 - iii. Permission holder’s acceptance of all of the terms and conditions of permission as the Government may prescribe by way of policy pronouncements from time to time.
 - iv. All other conditions for MSO registration as applicable from time to time for similar services.

TRAI Consultation Paper on “Renewal of Multi-System Operators (MSOs) Registration”

- v. Additionally, a checklist mentioning such compliances should be issued by the Licensor to the MSO at the time of renewal of registration.
- vi. The MSOs in turn must be mandated to submit a compliance certificate for the purpose of obtaining the renewal of Registration.
- vii. Violation record of any provisions of the Licensing Conditions by an MSO should also be considered during the time of renewal.

However, we submit that in case of any relaxation in any specific condition or obligation to a DPO, the same relaxation should be extended to and ensured across all DPOs.

Q 3.8 Stakeholders may also provide their comments on any other issue relevant to the present consultation.

Airtel Response: Here we highlight few critically important points relevant for DTH industry, which has been impacted due to developments in the broadcasting landscape. The DTH industry is marred with excessive, complex as well as **misbalanced regulatory framework wherein platforms like OTTs and Free Dish provide the same content to the subscribers with no cost or implication of license fee.**

a. Discriminatory License Fee Regime:

This aspect of skewed regulation relates to the same content being made available for free (what happens on DD Free to Air) or same content being made available on the same screen through a broadband pipe at unregulated prices (what happens on OTT platforms bypassing boundaries of broadcasting regime via data streaming offering same content).

It leads to over regulation of DTH (conditions of data streaming and financial obligations) while ignoring Cable Industry, OTTs & DD Free to Air; resulting in non-level playing field, promoting an arbitrage between the various platforms leading to erosion of customers from DTH to OTT/Free Dish.

Therefore, to cope up with the competitive constraint from unregulated platforms, there is a pressing need to bring ‘regulatory parity’ among all delivery platform operators. The table below explains the financial obligations of DTH operators in comparison to other DPOs:

DPOs	DTH	Broadcaster OTTs & other OTTs	HITS	LCO [Cable Operator]	MSO [Cable Operator]
Entry Fee	Rs. 10 crores	Nil	Rs. 10 crores	Rs. 500/- One-time	Rs. 1 Lakh one-time registration Fee.
Annual LF	8% of Gross Revenue	Nil	NIL	NIL	NIL
BGs	Amount equivalent to estimated sum payable equivalent to LF of two quarters	Nil	Rs. 40 crores	NIL	NIL

TRAI Consultation Paper on "Renewal of Multi-System Operators (MSOs) Registration"

	and other dues not otherwise securitised				
--	--	--	--	--	--

Hence, we request immediate attention to the authority to ensure level playing field and a non-discriminatory regime between the DPOs specifically on financial and pricing conditions.

b. Mandate as specified by NOCC and WPC cells of Department of Telecommunications:

- Presently the DTH satellite infrastructure is subjected to the T&Cs and approvals from WPC and NOCC.
- However, the Large MSOs who own the Satellite infrastructure such as headend are not mandated by any of such norms and approvals by WPC and NOCC. It amounts to discrimination to DTH operators and also affects quality of services to end subscriber.
- We request authority the introduce such requirements for MSOs in order to ensure continuity of their operations and maintaining the quality of services offered by them.
