

INDUSIND MEDIA & COMMUNICATIONS LIMITED



Date: July 28, 2014

To,
Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhawan,
Jawahar Lal Nehru Marg,
New Delhi – 110002.

Kind Attention: Mr. Agneshwar Sen

Dear Sir,

Please find the responses by IndusInd Media & Communications Ltd. to TRAI in response to the **Consultation Paper (No. 7/ 2014) on Regulatory Framework for Platform Services** (“Consultation Paper”) dated 23 June 2014.

This is for your uploading in the website as per TRAI process.

Thanking You,

For INDUSIND MEDIA & COMMUNICATIONS LTD.

A handwritten signature in blue ink, appearing to be 'Agneshwar Sen', written over a horizontal line.

(Authorized Signatory)

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HINDUJA GROUP



**RESPONSE OF MS/. INDUSIND MEDIA TO
CONSULTATION PAPER ON REGULATION OF
PLATFORM SERVICES DATED 23RD JUNE,
2014**





Response to the Summary of issues for consultation

Please elaborate your response with full and proper justification.

1. Do you agree with the following definition for Platform Services (PS)? If not, please suggest an alternative definition:

"Platform services (PS) are programs transmitted by Distribution Platform Operators (DPOs) exclusively to their own subscribers and does not include Doordarshan channels and TV channels permitted under downlinking guidelines."

Response of IMCL:

The DPOs must be allowed to transmit their content to their own subscribers as well as other DPOs.

Any control, explicit or otherwise of platform services must not lead to restriction of the constitutional right of freedom of speech exercised only by a few powerful satellite broadcasters and denied to the local regional or national distribution platform operators.

Any restriction except that placed by the advertising and programme code could be unconstitutional.

2. Kindly provide comments on the following aspects related to programs to be permitted on PS channels:

1. PS channels cannot transmit/ include

2.1.1 Any news and/or current affairs programs,

2.1.2 Coverage of political events of any nature,

2.1.3 Any program that is/ has been transmitted by any Doordarshan channels or TV channels permitted under uplinking/ downlinking guidelines, including serials and reality shows,

2.1.4 International, National and State level sport events/ tournament/ games like IPL, Ranji trophy, etc.

2. PS channels can transmit /include

2.2.1 Movie/ Video on demand

2.2.2 Interactive games,

2.2.3 Coverage of local cultural events and festivals, traffic, weather, educational/ academic programs (such as coaching classes), information regarding examinations, results, admissions, career counseling, availability of employment opportunities, job placement.

2.2.4 Public announcements pertaining to civic amenities like electricity, water supply, natural calamities, health alerts etc. as provided by the local administration.

2.2.5 Information pertaining to sporting events excluding live coverage.

2.2.6 Live coverage of sporting events of local nature i.e. sport events played by district level (or below) teams and where no broadcasting rights are required.

Response of IMCL:

The PS should be allowed to carry any content for which they have adequate content rights subject to the content conforming to the regulatory guidelines. The restriction should not be based on type of content but limited to prevention of piracy.

Platform services serve a much smaller geography compared to the national broadcasters and that itself will ensure enough differentiation in content. Market forces will ensure that the bigger events (like IPL) will be broadcast on satellite based channels. PS can carry events/content with more local significance which cannot be done by the national broadcasters in an effective manner.

The consultation paper itself acknowledges the unique position of these platform services wherein these services *“disseminate content in pull mode, triggered by a specific need or demand of the consumer”*. This “pull effect” will take care of differentiation in content and no additional restriction is required.

In our opinion, any restriction on type of content amounts to violation of fundamental right of freedom to speech.

3. What should be periodicity of review to ensure that the PS is not trespassing into the domain of regular TV broadcasters?

Response of IMCL:

There is no reason to have different domains for regular TV broadcasters and PS. The two services will have very different demands and budgets, and therefore will offer very different types of content. The review/monitoring should only be to ensure PS operators are not broadcasting any content for which they do not have the rights.

4. Should it be mandatory for all DPOs to be registered as Companies under the Companies Act to be allowed to operate PS? If not, how to ensure uniform legal status for all DPOs?

Response of IMCL:

The modern technology allows for local insertion and encryption at the local end. Therefore LMOs should also be allowed to carry PS and there should be a mechanism for them to be registered at local level with the local authorities as well as registering as companies or sole proprietorships.



5. Views, if any, on FDI limits?

Response of IMCL:

FDI limit to be made applicable as per the Cable TV Network Regulation Act 1995. On FDI limits, there should be 100% FDI allowed with 49% automatic route and 51% allowed with prior intimation to the Ministry of I&B and the DIPP.

6. Should there be any minimum net-worth requirement for offering PS channels? If yes, then what should it be?

Response of IMCL:

There should not be any such requirement. Any minimum net worth requirement would lead to undesirable creation of anti competitive, anti public monopolies.

7. Do you agree that PS channels should also be subjected to same security clearances/ conditions, as applicable for private satellite TV channels?

Response of IMCL:

There may be a provision for security clearance, but it is essential that it is done at a local level. At best, the District Magistrate of the area may be the approving authority. Even a self certification that a person or entity has no criminal record in the form of conviction of a criminal offence.

8. For the PS channels to be registered with MIB through an online process, what should be the period of validity of registration and annual fee per channel?

Response of IMCL:

The smaller operators rely on small profits from the PS. A recurring annual fee might end up killing a lot of the smaller PS and will end up adversely affecting the livelihood of a number of PS operators. Therefore, there should not be any annual fees.

The period of license can be 10 years.

9. What is your proposal for renewal of permission?

Response of IMCL:

There should be an automatic route for renewal of permission, especially for those DPOs who rigorously follow the guidelines. There may be provision for cancelling or non renewal of permission for DPOs with a history of carrying illegal and/or pirated content in any form or have otherwise violated the norms.

10. Should there be any limits in terms of geographical area for PS channels? If yes what should be these limits.

Response of IMCL:

There should not be any geographical restrictions to ensure a level playing field. Since the very demand of these channels is due to local content, the market forces



will itself restrict the geographical area. At best, it may be restricted to the operational area of the DPO.

11. Should there be a limit on the number of PS channels which can be operated by a DPO? If yes, then what should be the limit?

Response of IMCL:

MSO/LMOs have not set up their business to being subservient to broadcaster requirements. They are independent business owners. If there is to be a restriction on the number of channels, a similar restriction should be there on number of broadcast channels permitted in the country.

Further, any limit on the number of PS channels would be unconstitutional under article 19 1(a) of the constitution

12. Do you have any comments on the following obligations/ restrictions on DPOs:

12.1. Non-transferability of registration for PS without prior approval of MIB;

Response of IMCL:

The approval should be from the local authorities and not MIB.

12.2. Prohibition from interconnecting with other distribution networks for re-transmission of PS i.e. cannot share or allow the re-transmission of the PS channel to another DPO; and

Response of IMCL:

There should not be any prohibition from interconnecting with other distribution networks.

12.3. Compliance with the Programme & Advertisement Code and TRAI's Regulations pertaining to QoS and complaint redressal.

Response of IMCL:

The platform services must follow the Programme & Advertisement Code and TRAI regulations pertaining to Quality of Service and complaint redressal.

13. What other obligations/ restrictions need to be imposed on DPOs for offering PS?

Response of IMCL:

DPOs must not offer any satellite based or internet based channels through PS. As long as the platform service is self registered with the District Magistrate or the MIB and is fully compliant with the advertising and programming code under the Cable Act and adheres to TRAI regulations, no further restrictions are necessary.

14. Should DPO be permitted to re-transmit already permitted and operational FM radio channels under suitable arrangement with FM operator? If yes, then should there be any restrictions including on the number of FM radio channels that may be re-transmitted by a DPO?

Response of IMCL:

Only the radio channels operating in the specific area should be allowed.

15. Please suggest the mechanism for monitoring of PS channel.

Response of IMCL:

The DPOs must store the PS content they transmit for 90 days and they can be produced before any government agency as and when required.

16. Do you agree that similar penal provisions as imposed on TV Broadcasters for violation of the terms and conditions of their permissions may also be imposed on PS? If not, please suggest alternative provisions.

Response of IMCL:

Penal provisions similar to the provisions of MIB's policy guidelines for dowlinking of television channels must be imposed.

17. What amendments and additional terms & conditions are required in the existing registration/ guidelines/ permission/ license agreements w.r.t. DPOs for regulating the PS channels?

Response of IMCL:

In view of the fact that PS channels are not currently regulated, the queries raised in this Para are redundant but suggestions given in earlier paras may be kept in mind.

18. What should be the time limit that should be granted to DPOs for registration of the existing PS channels and bring them in conformity with the proposed regulatory framework once it is notified by MIB?

Response of IMCL:

The DPOs should be given a period of six months to bring their services in conformity with the proposed regulatory framework. The registration application must be deemed approved on submission and the authorities may respond in case they have any issues within 30 days.

19. Stakeholders may also provide their comments on any other issue relevant to the present consultation including any changes required in the existing regulatory framework.

Response of IMCL:

N.A.