

Response to the “Consultation paper on Regulatory framework for Ground-based Broadcasters dated 18 October 2024

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Q1. For the purpose of regulatory framework for ground-based broadcasters, do you agree with the draft definition for broadcaster, programme, Satellite-based broadcasting and Groundbased broadcasting given below? If not, please suggest alternative definitions. Please elaborate your response with full justification.

“broadcaster” means a person or a group of persons, or body corporate, or any organization or body who, after having obtained, in its name, authorization from the Central

Government for its channels, is providing programming services;”

“programme” means any television broadcast and includes exhibition of films, features, dramas, advertisement and serials;

ii) News & current affairs, Non-news & current affairs, educational content

iii) any audio or visual or audio-visual live performance or presentation, and the expression “programming service” shall be construed accordingly;”

“Satellite-based Broadcasting” means providing programming services using satellite-based communication medium for delivering channels to the distributors of television channels.”

“Ground-Based Broadcasting” means providing programming services using terrestrial communication medium for delivering channels to the distributors of television channels.”

Response : Our view is that there should be a definition which is technology or medium agnostic. The technology and mediums will evolve as newer technologies evolve, today we are talking of Satellite based broadcasting (SBB) and Ground based broadcasting (GBB) which is mostly being linked with the IP based transmission, however we need to look at forward looking scenarios where , terrestrial broadcasting is one area which may not be there today but may come soon in form of Digital Terrestrial Transmission (DTT) (though Prasar Bharti did some experiments) and terrestrial broadcast remains the domain of Prasar Bharti today but going forward may be opened up in future. Terrestrial broadcasting can be

based on the DVB T or ATSC or 3GPP standards and may entail us to relook at the process again and try to redefine the definition.

I see this consultation paper is only from the point of adding IP transmissions

It can be argued that technologies cannot be predicted but we cannot change the definition every time a newer technology comes in play.

We should not be having two definitions for a similar intent, this will cause grave confusions when one entity moves from one medium of distribution to another. The basic intent remains same.

Thus in our view the definition as reproduced below is good and may be continued.

“broadcaster” means a person or a group of persons, or body corporate, or any organization or body who, after having obtained, in its name, authorization from the Central Government for its channels, is providing programming services;”

“programme” means any television broadcast and includes exhibition of films, features, dramas, advertisement and serials;

ii) News & current affairs, Non-news & current affairs, educational content

iii) any audio or visual or audio-visual live performance or presentation,

and the expression “programming service” shall be construed accordingly;”

This definition has stood the test of time, we started with analogue transmissions, moved to the C band, cable networks, digital cable networks, Ku band transmissions, we now look at the neo scenarios , yet this definition continues to serve the purpose and will continue to serve the purpose.

Q2. Should there be any distinction between ground-based broadcasters (GBB) and the satellite-based broadcasters (SBBs)? If so, what aspects/criteria should define such distinction? Please provide detailed justification for your response.

Response: We are of the opinion that there should not be any distinction between the GBB and SBB. It is important to mention here that , in both the cases, the programming is done in similar manner, the ultimate display devices are also same, then only differential is the distribution medium, one is using satellite and other is using fiber networks, cloud based or other IP distribution methods, going forward we may see DTT or 3GPP based approach riding on the mobile networks. Thus in our opinion there should not be a distinction between ground based broadcasting and satellite based broadcasting. The broadcaster is moving from satellite to ground based as it may save him some costs or going forward when the C band spectrum is scarce or there is a interference to receive stations from 5G networks, the channel is protected from the interference.

In many places in international markets and even few Indian channels who have limited distribution , moved on from Satellite to IP distribution as it was more cost effective for the channel.

Creating any distinction will not be good for the distribution industry . The creating a differential regime for the SBB and GBB can lead to many other complications and imbalance in the industry , which, with lot of efforts from TRAI have been streamlined. The biggest issue will be must provide, it is a matter of fact that today distribution industry has healthy competition amongst players as they have access to all the contents and can serve the consumers better with the content. If we allow the State or region base broadcasters then few element can create exclusive channels and may try throttle the competition. Thus must provide should be there and the other interconnect regulations be applied to all the Broadcasters , there should not be any distinction between the SBB and GBB.

Similarly the pricing of the channels is impacted if there is a different regime for the GBB Broadcasters, few broadcasters may try to launch GBB channels just to get around the pricing and NTO guidelines, which further reinforces our view that there should not be any distinction between the SBB and GBB.

Q3. Under the scope of GBBs, should all terrestrial transmission medium(s) (excluding satellite communication) such as fibre, broadband, cloud, etc be permitted? If not, please provide detailed justification for your response.

Response: We have already opined in our response above that there should be no distinction in the broadcasting scenario based on the distribution media used. Distribution could be via, satellite, broadband, fibre , cloud etc in present context and in future could be DTT, D2M (using ATSC 3.0 or 3GPP). The distribution technologies used , could be any, and any definition or the regulations should be technology agnostic. We can take an analogy from telecom sector , we had a CDMA operator at one time in India, did we made sperate regime for them, the answer is no.

It is logical that here we are talking of an glass to glass scenario (glass of the camera for programming to the glass of the viewing device) , our efforts should be towards ensuring that the sector grows by giving the equitable opportunities to all and try to stop the practice of jumping from one media to another to get undue advantage and complicate the regulations.

Q4. Whether GBBs should be permitted/authorised to provide services in two separate categories i.e. (i) at State level, and (ii) at National level? If State level category for GBB are considered, then should such State level GBB may be allowed to obtain separate

permissions/ authorisations in more than one State or there may be some ceiling on number of State-wise permissions/authorisations beyond which national level permission/authorisation must be obtained?

Response : In our opinion there should be one category of the permission/authorization. In case the permissions/ authorisations are divided into state or national level , then regulatory provisions cannot be adhered to. How will the must provide be maintained?. Will it create monopolies and exclusivities of its own? How will those be prevented? We have a country with diverse languages and we have residents of all languages in all parts of the country. Currently the Satellite based channels are available across the country and any DPO can carry the same on the equitable term. By carving out regional authorisations we may deprive a certain part of the society or citizens from assessing that content and also create its own exclusivity which is not what the intent of our regulations are.

It is the broadcaster who is taking conscious decision that he will like to distribute via IP links , fibre or cloud which can be due to cost factor etc. The broadcaster has to meet all the other regulations set from time to time in an equitable manner.

The monitoring of the channels is another aspect we need to consider. EMMC monitors the channels and it will be an herculean task to keep on tracking the state wise ground based broadcasters and monitoring them. There should be mandate for the ground based broadcaster to ensure that it provides the channels to the monitoring facility at its cost and ensure its uninterrupted monitoring.

Q5. An SBB pays a cumulative annual permission fee of Rs. 7 lakhs (Rs. 2 lakhs for uplinking + Rs. 5 lakhs for downlinking) per channel.

Whether GBB should be mandated to pay the same amount of annual fee of Rs. 7 lakh per channel? If not, what should be the annual fee for GBBs? Please provide detailed justification for your response.

Response : As we have already mentioned that there should be one category of the broadcaster and the charges should be same for the SBB and GBB. A significant portion of the charges being levied today are towards covering of the administrative costs for monitoring the channels and thus should not be differentiated among the broadcasters independent of the media they choose to distribute their channels. In overall scheme of things of a channel the amount being charged is minuscule.

Q6. Provisions for teleport/teleport hub exists in the uplinking / downlinking Guidelines 2022 for broadcaster using satellite communication. Whether similar provisions are required in relation to any hub/gateway that may be required to be set up for distribution of TV channels

by GBBs? If so, what should be the corresponding provisions? Please elaborate with justification.

Response : In case of the GBB broadcasting is permitted , there uplinking and downlinking guidelines 2022 will have to be amended suitably to allow for the GBB via IP. As currently a SBB can put up a teleport of self or can use a third party teleport, similarly a GBB can set up its own internet hub or may use a third party services. We are of the opinion that the provision with respect to the availability of feed for the monitoring of the channel by EMMC need to be inserted. Other terms and conditions of the uplinking and downlinking guidelines are comprehensive. Only the provisions related to the Satellite transmission like taking the satellite capacity from the authorized satellites, obtaining WPC permissions etc. will not apply to the GBB.

Q7. If a GBB is permitted to operate at State level, then what should the regulatory provisions for a GBB operating at State level which include:

- a) Processing Fee*
- b) Annual Fee*
- c) Net worth Requirement*
- d) Performance Bank Guarantee (PBG)*
- e) Other regulatory provisions*

Response: As we have mentioned earlier that there needs not be a different category of the GBB at state level, there needs to be one category of national GBB, thus the charges applicable to the National level SBB be applicable to all GBB. State wise GBB cannot meet the must provide regulations and other requirements as already explained in our responses above.

Q8. Whether the extant Tariff Order, Interconnection Regulation and Quality of Service Regulation may be applied mutatis mutandis to GBB? Please explicitly indicate, if any modifications are required in the said Tariff Order, Interconnection Regulation or Quality of service Regulation for GBBs.

Response : As we have mentioned that there need not be any distinction between the SBB and GBB , thus all the extant Tariff orders, interconnect regulations and quality of service regulations should apply mutatis mutandis to the GBB.

Q9. (a) The extant interconnection regulation provides for “Must Carry” and “Must Provide” regime. In case of GBB, whether the same regime should be made applicable?

(b) Normally, the cost of bandwidth / any other additional cost involved should be borne by both the parties based on a mutual agreement. However, in case the broadcaster and DPO fail to reach an agreement on costs involved, then in such a situation, since the

‘Must carry’ provision is exercised by the broadcaster, therefore they should bear the cost of bandwidth between broadcasters and DPOs/ any additional cost and similarly, since the ‘Must provide’ provision is exercised by DPO, therefore DPO should bear bandwidth cost/ any additional cost involved. Do you agree with the above approach? If not, who should bear the cost in both the cases? Please provide detailed justification for your response.

Response : We should not confuse the issue of GBB and SBB with the interconnect regulations. It seems that the overhang of the platform services weighs heavily on the thoughts going through while drafting this consultation. There cannot be a compromise with the extant regulations of the “Must Carry” and “Must provide”. We are not talking of a platform service which has been made as exclusive service to the platform. Here we are talking of broadcasting services, which by inherent means one to many and when we talk to one to many means all who are desirous of receiving the service.

We had seen earlier days when broadcasters used to deny content to DPO’s on one pretext or other and in this way the networks used to suffer and even in few cases DPO’s were taken over by other who had more influence with the broadcasters or were vertically integrated with broadcasters. . We had seen broadcasters asking for unreasonable amount and the subscription charges from few and giving advantageous deal to few to make them grow. After many judicial interventions and regulations by TRAI , we could see some streamlining in the process in the industry where the networks do not have to struggle for the content.

We should not now give another excuse to the GBB to deny the content to any platform by raking the issue of the cost of the link and with it will come the technical feasibility issue. Tomorrow the non availability of the fibre to premises of the DPO will become another excuse for denying or delaying the content to the DPO and which is not the intent of any of the regulations of the TRAI .

As we have mentioned above that it has been the choice of the broadcaster to choose the distribution media and the broadcaster has to follow the “ Must provide “ as per the interconnect regulations and thus it should be the broadcaster who should be mandated to provide the content to the DPO in a specified time limit . DPO should not be forced to pay for the links to its place as it means it is additional cost to the DPO which has not been factored into the cost /pricing of the channel. If this pricing aspect is again to be discussed via a separate consultation paper or left to the market forces then we are going to open a new pandora box for all to consider which at this stage will not be good for the industry.

Thus in our view all the costs of making available the channel till the DPO end should be the responsibility of the broadcaster and it is broadcaster’s choice if they wish to be SBB or GBB ..

Q10. In case a SBB wishes to switch to terrestrial-based communication medium to deliver its channels to DPOs, what should be the regulatory framework, in such a scenario?

Response: In a situation where the SBB wishes to switch over the GBB mechanism to deliver its channels to the DPO's, the Channel needs to intimate MIB and TRAI to this effect and give a notice to minimum 60 days , this time the channel will need to get its terrestrial feeds in place and also the ground receive equipment at the DPO level. The channel has to undertake that before it switches off the SBB feed all the current recipients of its channels will continue to get the channel without any disruption. The necessary changes will have to be done in the Uplinking downlinking 2022 guidelines, TRAI will have to do the needful in its interconnect regulations and the QOS regulations.

As we have stated above that there is no differentiation in the costs/fees to be paid to the authorities thus it will have no financial implication from the fees point of view.

The SBB will have to surrender its WPC operating license and go through the required process and formalities of the WPC. In case the SBB uses a third party teleport then it will have to submit a certification from the Teleport that the channel transmission has been discontinued.

Q11. In case a GBB wishes to switch to satellite-based communication medium to deliver its channels to DPOs, what should be the regulatory framework, in such a scenario?

Response : In a situation where the GBB wishes to move to SBB , it will have to intimate MIB and then take the permission for setting up a teleport or will have to tie up with the Teleport service provider . Subsequent to the MIB permission it will have to move to WPC formalities. The service provider will ensure that during transfer/transition there will not be any disruption of the services to the DPOs..

Q12. In case a broadcaster (SBB/GBB) wishes to use both satellite and terrestrial transmission technology to provide their channels to the DPOs, what should be the regulatory provisions for such broadcaster(s)? Should they require separate permissions and pay additional annual permission fees, processing fees, etc. for the above scenarios? Please provide detailed justification for your response.

Response : Do we ever envisage this type of situation , if a channel is on satellite then why will it spend on the terrestrial medium , and if a channel is on GBB and wishes to do so on satellite then why will it have double the expense.

In case for some reason a channel decides to go on both the mediums of broadcasting that is satellite and terrestrial, then it should take afresh new permission from the MIB. One channel should not and cannot be on two mediums. The channel will have to declare the pricing for both the channels and will have to report the numbers to the authorities for both distribution mediums and also adhere to all the interconnect norms, must provide norms as

per the extant regulations. How does the TRAI wishes to treat the channel, as one or two channels, logically they should be two channels with each channel having its own pricing.

Q13. What should be the Regulatory Framework/Guidelines for Ground based broadcasters vis-à-vis 'Guidelines for Uplinking and Downlinking of Satellite Television Channels in India, 2022'?

Please provide detailed justification for your response.

Response : As we are of the view that the regulatory framework/guidelines should be same for both the class of broadcasters . There is no specific reason that there should be two different regimes.

Authority in its recommendations on the "Regulatory Framework for Platform Services" dated November 19, 2014, had proposed a foundational framework for regulating Ground-Based Broadcasters (GBBs) in India and recommendations had were that the regulatory framework for GBBs should be aligned as far as possible with the existing Uplinking and Downlinking Guidelines applicable to satellite-based broadcasters, with necessary adjustments for the ground-based broadcast model. This also strengthens the view that there is no need for a separate regime for GBB.

Q14. Whether the existing provisions contained in the uplinking / downlinking guidelines 2022, excluding the provisions related to satellite communications, be made applicable to ground based broadcaster or do they need any modifications? In case you are of the opinion that modifications are required in existing uplinking/downlinking guidelines 2022, then please provide your comments with reasons thereof on amendments [including any additional restriction(s)/condition(s)] required for Ground based broadcasters.

The stakeholders must provide their comments in the format specified in Table 1 explicitly indicating the existing clause, suggested amendment and/or additional condition/restriction and the reason/full justification for such amendment(s)/addition(s) for Ground based broadcasters full justification for the proposed amendment

Response : As we have mentioned that there should be only national level of SBB/GBB . In case the GBB is allowed then only changes will be that GBB will not be required to go through the process of the taking steps related to the uplinking of the channel such as satellite capacity from authorized satellite provider, WPC /NOCC permissions etc. Suitable exceptions will have to be provided for the GBB in the uplinking downlinking guidelines

Thus in our opinion the existing provisions contained in the uplinking / downlinking guidelines 2022, excluding the provisions related to satellite communications, be made applicable to ground based broadcaster.

Q15. Stakeholders may also like to provide their comments on any other issue relevant to the present consultation along with justification.

Response : The biggest issue which we foresee in the GBB via fibre is the continuity of the provision of the services. As we are aware that there is frequent disturbances in the continuity because of fibre cuts, which happen due to natural reasons, maintenance by civic authorities etc. Today it is well known that even the Telcom Service providers are not able to take their fibre network into the terrains of state like Uttrakhand, Himachal, North Eastern states and large part of these states for example are without connectivity. If one is GBB , how will it ensure that signal reach the DPO uninterruptedly , it should not happen that discontinuity in the signals due to any reason results in the consumer dissatisfaction from its service provider and the collection impacted. This can also be used as a suede mode for disadvantageous treatment to a network or DPO. There is need to consider this and make appropriate provisions in the guidelines and regulations.