

STAR INDIA'S COMMENTS TO THE CONSULTATION PAPER ON HEADEND-IN-THE-SKY ISSUED BY THE TELECOM REGULATORY AUTHORITY OF INDIA DATED JULY 24, 2007

Introduction

1. We welcome the initiative taken by the Telecom Regulatory Authority of India ("TRAI") for issuing the Consultation Paper on Headend-In-The-Sky ("HITS"), and seeking comments from the stakeholders on issues relating to policy framework for the guidelines and licensing terms and conditions for HITS operation.
2. We have always supported the Government of India/TRAI's cause to extend addressability and digitalization throughout India. We believe that introduction of HITS would be a step forward in this direction.
3. Each distribution platform has some unique features and is different in terms of technology, people, investments, coverage, etc. Similarly, HITS too should be introduced as an alternate distribution platform, and should not be compared with DTH or any other distribution platforms. Typically, HITS operates on a B2B basis. Considering the structure of cable business in India and the large number of cable operators spread across India, HITS could be a viable model for introducing addressability and digitalization.
4. In this background, our comments to each of the issues for consultation are as follows:
 - (i) **What should be the scope of the HITS operations? Whether the scope of the HITS operator should include both the models as stated under heading "scope of HITS operation" in paras 4.5 and 4.6? Whether HITS operations should be allowed in C-Band or in Ku band or in both? Whether a HITS operator should be restricted to offer services only to the cable operator? Alternatively, should HITS operator be allowed to serve the end customer also directly? If yes, then whether the restriction on DTH to service end customer only needs any review?**

Either models suggested in paras 4.5 and 4.6 may be adopted. However, it would be preferred if HITS is introduced as an alternate distribution platform as suggested in para 4.5 and not merely an infrastructure provider for the MSOs as suggested in para 4.6. HITS, as an alternate distribution platform, would increase competition, which would benefit the consumers.

As you would note that, in the CAS areas, the MSOs have become a dominant player and the role of the LCOs, who has played a major role in the establishment of this industry, has been marginalized. We feel that

HITS, as a delivery platform, can play an important role to ensure digitalization without affecting the interests of the LCOs.

Under the existing law, a HITS operator is permitted to provide signals to cable operators only through C-Band. We believe that the existing law should continue and HITS should operate only on a B2B basis. If HITS is permitted to offer services to consumers, it would be similar to DTH service, and would reduce the options available to the consumers. Besides direct to consumer in C-Band is not feasible considering the size and cost of the C-Band dish antenna.

(ii) What should be the limit of Foreign Direct Investment (FDI) for HITS licenses? Should there be any restriction on the maximum limit on the composite figure of FDI and FII?

The FDI restriction is 49% in cable, 20% in DTH, and 74% in IPTV. Today, each addressable distribution platform is motivated to rapidly deploy infrastructure alongwith innovative converged services in order to win market share from the other. In the absence of the FDI parity, the IPTV operators continue to enjoy better access to the capital required to invest in the network upgrades. This is to the detriment of other addressable distribution platforms like cable and DTH. Therefore, in order to ensure a level playing field, we suggest that 74% FDI be permitted across addressable distribution platforms (including HITS).

(iii) What should be the entry fee and the annual license fee for HITS?

We suggest that a minimum entry fee be prescribed for each addressable distribution platform considering the investments required and the area of operation. The entry fee should be substantial enough to ensure that the non-serious players are kept out.

However, we believe that annual fees should not be applicable to any distribution platforms (including HITS). Accordingly, the existing annual fee for a DTH operator and the annual registration fee for CAS operators should be deleted.

(iv) Whether HITS operator should be allowed to uplink from outside India also? If yes, what are the safeguards needed for monitoring the system? What are the checks and balances required to be put in place to address the level playing field issue with the operators uplinking form India?

Under the downlink guidelines, the channel content of broadcasters is being monitored in India. We do not see any reason why the distribution of such channels also needs to be monitored. Therefore, HITS and DTH operators should be permitted to uplink from outside India as well.

We do not think any special checks and balances are required to be put in place to address the level playing field issue with the operators uplinking from India.

(v) Should any interconnection issues be addressed in licensing conditions?

The interconnection issues with respect to cable, DTH and HITS are already provided in the interconnection regulations. However, some clarification is required with respect to IPTV. Therefore, interconnection issues need not be addressed in the licensing conditions.

Further, the revenue share between operators should be left to market forces. The TRAI should not determine the revenue share between operators. In fact, the revenue share between broadcasters & MSOs, and MSOs & cable operators in CAS areas should be done away with.

(vi) Should spectrum charges be recommended to be done away with for HITS service provider?

As recommended by the TRAI, we also feel that spectrum charges for uplinking from within India should not be applicable to DTH and HITS operators.

(vii) Should there be any cross holding restriction? If yes, please suggest the nature and quantum of restrictions.

We suggest that no cross holding restrictions be imposed on the broadcaster and distribution platforms (including HITS), and the cross holding restrictions imposed under the DTH Guidelines be lifted. Considering the number of broadcasters and distribution platforms that exist in India today, it is unlikely that any vertical integrated entity can become dominant player. Moreover, under the existing competition laws, merely being dominant is not illegal; abuse of such dominance tantamount to violation of competition laws.

(viii) Should HITS operator be allowed to offer value added services?

The value added services would be beneficial for the consumers. Therefore, to ensure parity with telecom operators, the TRAI should not impose any restriction on the distribution platforms (including HITS) to

offer value added services, and leave the distribution platforms to determine the viability.

(ix) Whether “must carry/must provide” conditions be imposed on HITS operation?

We have always been against imposition of any such external restrictions. We feel that the business should be governed by market forces.

As a principle, both ‘must provide’ and ‘must carry’ should co-exist. In India, with the number of operational channels and the channels to be introduced in the near future, it is likely that the distribution platforms would have bandwidth constraint. Therefore, ‘must provide’ obligation should not be imposed on broadcasters and ‘must carry’ should not be imposed on the distribution platforms (including HITS), and the ‘must provide’ obligation under the interconnection regulation should be lifted.

(x) Whether a stipulated networth of specified amount be made as an eligibility criteria to avoid any non-serious applicant?

The intent of the proposed Guideline is to ensure successful implementation of HITS. In the recent past, few operators, without having financial and technological backup, had obtained licenses from the Ministry of Information & Broadcasting to operate in CAS notified areas. These operators failed to successfully implement CAS, adding to the CAS confusion. It is obvious that the TRAI would not want a similar situation for HITS as well. In view thereof, we suggest that the TRAI provide some eligibility criteria for all distribution platforms; be it in terms of net worth or entry fees.