

Edward Knight
Nasdaq

Vijay Advani
Nuveen

Siva Sivaram
Western Digital Corporation

Kiran Mazumdar-Shaw
Biocon

Millnd Pant
Amway

Prakash H. Mehta
Akin Gump

Dan Rosenthal
Albright Stonebridge Group

Sudipta Bhattacharya
Adani Group

Ed DiSanto
American Tower Corporation

Amit Kalyani
Bharat Forge

Sir Michael Arthur
Boeing

Guru Bandekar
Carrier

Ashu Khullar
Citi

Tobl Young
Cognizant

Ralph Voltmer
Covington & Burling LLP

Kamal Ahluwalia
Eightfold.ai

Kami Viswanathan
FedEx

Vivek Lall
General Atomics Global Corporation

Mahesh Palashikar
General Electric

Karan Bhatia
Google

C Vijayakumar
HCL Technologies

Christopher A. Padilla
IBM

Salli Parekh
Infosys

Rajan Navani
JetSynthesis

Paul Knopp
KPMG US LLP

Tim Cahill
Lockheed Martin International

Alex Moczarski
Marsh & McLennan

Vicki Hollub
Occidental

Magesvaran Suranjan
Procter & Gamble

Stephen J. Hadley
RiceHadleyGates LLC

Tamer Abuaita
Stanley Black & Decker

Banmali Agrawala
Tata Sons Ltd.

Mallika Srinivasan
Tractors & Farm Equipment

Todd Skinner
TransUnion

Ufku Akaltan
United Postal Service

Raghu Raghuram
VMWare

Judith McKenna
Walmart

Ramesh Abhishek
Former Secretary (DPIIT)

Amb. Nirupama Rao
Former Ambassador of India

Dr. Gulshan Rai
Former National Cyber Security Coordinator

Amb. Kenneth Juster
Former Ambassador of the U.S. to India

Arun Kumar
Managing Partner, Celesta

Admiral Harry Harris
24th Commander, U.S. Indo-Pacific Command; Former U.S. Ambassador to South Korea



October 3, 2023

Shri Anil Kumar Bhardwaj
Advisor, Broadcasting and Cable Services (B&CS)
Telecom Regulatory Authority of India (TRAI)

Re: USIBC Response to TRAI Consultation Paper on Review of Regulatory Framework for Broadcasting and Cable Services (Consultation Paper)

Dear Sir,

Since our inception in 1975, the U.S.-India Business Council (USIBC) has tirelessly promoted an inclusive bilateral trade environment between India and the United States and consistently advocates for a strong, strategic bilateral relationship in support of entrepreneurship, job creation and economic growth. Among other things, we engage in stakeholder dialogues to ensure that India's economic growth flourishes based on light-touch regulation and international best practices. USIBC is an integral part of the U.S. Chamber of Commerce, the world's largest business advocacy organization, operating in over fifty countries to promote free enterprise and advance trade and investment. USIBC represents some two hundred companies of every size from multiple sectors based in India, the U.S., and other like-minded nations.

USIBC members cross the entire economy with a large digital economy committee that includes broadcasters, telecom operators, equipment manufacturers, systems integrations, and companies reliant on secure, trusted, and efficient global communications networks. Our members also include e-commerce, sharing economy, and other digital enterprises, as well as the technology service providers and product producers that support and enable India's rapidly expanding digital economy and telecom manufacturing sectors. In short, USIBC encourages a broad set of digital policies that boosts bilateral trade and commerce, thereby creating a transparent and attractive investment environment, and the general ease of doing business.

USIBC has a long history of working with TRAI and hosted your Secretary at our India Ideas Summit last September. We have engaged the current TRAI Chair, Members, and staff in support of telecommunications policy, regulations, and the development of the sector, including around fraud prevention, 5G spectrum auctions and implementation, satellite communications, and other critical and strategic technologies. USIBC is also U.S. co-chair of the U.S.-India Information and Communications Technology Working Group (ICTWG), and we develop strategies for long-term, multi-stakeholder bilateral cooperation in the digital space. Within this context, we appreciate the opportunity to provide comments on the referenced Consultation Paper.



USIBC welcomes TRAI recognition of issues faced by stakeholders in the current broadcasting and cable services (B&CS) regulatory regime. USIBC also thanks the Authority for the initial steps taken towards deregulation and regulatory forbearance that supports consumer choice and innovation in the sector. Consumers benefit from forbearance on a-la-carte TV channels pricing offered by broadcasters, the relaxation on the discount cap of broadcasters' bouquets, and the restoration of the original INR 19 ceiling on the maximum retail price (MRP) of a-la-carte for channels with the bouquet. These are important steps in deregulating the sector.

However, the B&CS segment continues to have overly prescribed economic regulations that limit innovation, creativity, and growth. For instance, the Tariff Order prescribes the manner in which the broadcasters have to form and price their bouquets, including the types of TV channels that can be included in such bouquets. **Therefore, we take this opportunity to recommend additional deregulation in the pricing and packaging of TV channels by broadcasters as acknowledged by TRAI itself in the Explanatory Memorandum of the Tariff Order dated November 22, 2022.**

“The bundling discount is a norm across all the products including consumer goods, white goods etc. It provides flexibility to service providers in their offerings. Sometimes, bundles offer better value proposition to consumers.”

“The Authority recognizes that bundling of services and products in various forms is widely practiced across sectors and markets. It is also accepted that bundling of products and services, if done in a fair manner, can create economic efficiencies, reduce operational expenses, provide consumers with wider choices and access to products and services.”

USIBC agrees with the TRAI Chair, who stated that “It would be best if the industry moved towards forbearance together. It would be best for market forces to take over completely,¹ that the best way forward for the industry is to move towards forbearance and allow market forces to take over.

With this background, we would like to reiterate our support for deregulation on the issues raised in the Consultation Paper. However, this position is premised on the condition that all economic regulations imposed on broadcasters are also removed.

It is important to recall that TRAI, in 2004, introduced economic regulations to bring about effective competition in the sector. However, in its recommendations dated October 1, 2004, TRAI also recommended a sunset date for all price regulations once there was sufficient competition in the market. The relevant excerpt is as given below:

“Sunset date of price regulation clause

4.43 It must be emphasized that the regulation of prices as outlined above is only intended to be temporary and till such time as there is no effective competition. The best regulation of prices is done through competition. Therefore, as soon as there is evidence that effective competition

¹ <https://www.livemint.com/industry/telecom/trai-chairman-advocates-minimal-regulation-in-broadcasting-sector-11683106410707.html>



exists in a particular area price regulation will be withdrawn. TRAI will conduct periodic reviews of the extent of competition and the need for price regulation in consultation with all stakeholders.”

As acknowledged by TRAI, the economic regulations in the industry were always intended to be temporary. However, they have been in place for the last 19 years despite all economic parameters indicating that there is effective competition and choice in the market. TRAI has also recently opined in its recommendations on “Market Structure/Competition in Cable TV services,” dated September 7, 2022, that there is sufficient competition in the market. The following table illustrates the growth and competition in the sector that underscores the benefits of limited regulations and the power of the market economy and consumer choice.

Data on Competition and Choice in the B&CS Market

	2004	Latest data ²
Number of subscribers	45 million	184 million
Sector Revenue	INR 128 billion	INR 685 billion
Number of channels	160+	912
No. of DTH operator	1	4
No. of MSOs	-	1,733
No. of cable operators	30,000	155,303

Thus, USIBC strongly recommends the removal of economic regulations such as price caps, ceilings, discount caps and restrictions in the formation of bouquets for both broadcasters as well as for Distribution Platform Operators (DPOs). TRAI should also allow service providers to fix the prices of their TV channels and distribution services and negotiate the terms and conditions of their interconnection based on market forces with respect to areas where forbearance may best be implemented in a phased manner, the framework for sunset provisions relating to interconnection and related regulatory principles should be identified and notified.

As TRAI implements more regulatory reforms, we recommend that market-based agreements between broadcasters and DPOs be permitted. In the event the DPO and the broadcaster are not able to execute a market-based agreement, the option of executing a Reference Interconnect Offer (RIO) should be provided. Such RIO-based agreements should be based on the RIOs/rate cards published by the broadcasters and the subscriber numbers and target markets published by the DPOs. More importantly, there should not be any restriction on the pricing and packaging of broadcasters’ RIOs, as there is adequate competition in the sector, which will ensure competitive prices for consumers.

Such deregulation will allow TRAI to focus its regulatory efforts on promoting the orderly growth of the sector and ensuring better quality of services for consumers. However, we would like to take this opportunity to highlight that service provides support competition and

² FICCI Frames Reports (2006-2020); TRAI white paper, TRAI 2004 consultation paper, TRAI 2021 consultation paper



innovation. From a regulator's point of view, the objective should be a thriving, innovative, competitive and price sensitive market.

The continuation of the "temporary" regulations first introduced in 2004 has created inefficiencies in the market and has disincentivized innovations (both on content as well as on infrastructure). Therefore, to enable stakeholders to compete and innovate, and market forces to discover commercially sustainable competitive prices for consumers, it is essential that these regulations be removed. Such deregulation will also ensure the long-term sustainability and growth of the B&CS sector.

USIBC would like to take this opportunity to submit our comments and key concerns on the issues raised in this Consultation Paper. We also request the opportunity to meet with you to discuss this consultation and ask that we be included in any deliberations on the subject, both formal and informal. Should your office have any questions, my colleague and USIBC Senior Director of Digital Economy Aditya K. Kaushik, akaushik@usibc.com, would be happy to address them. USIBC is committed to enhancing commerce and investment between India and the United States and is grateful that our submission will be given due consideration.

Warm regards,

A handwritten signature in blue ink that reads "Jay Gullish".

Jay Gullish
Executive Director, Digital Economy, Media, Entertainment, and Satcom
U.S.-India Business Council
U.S. Chamber of Commerce
T: +41 76 817 3524
jgullish@usibc.com