



Comments on the Telecom Regulatory Authority of India Consultation Paper on “Ease of Doing Business in Broadcasting Sector”

August 28, 2017

CASBAA¹ would like to express warm appreciation to the TRAI for its consultation paper on “Ease of Doing Business in Broadcasting Sector”. It is highly commendable that the TRAI should focus attention on issues of this type, where relatively small changes can make a relatively large difference in the operation of businesses in India, and on the perception of India as a “business-friendly” environment. We share the TRAI’s belief that the Media & Entertainment industry and its ancillary support industries can and should be a fount of growth, creativity and job creation for India in the decades to come, and that an improved trajectory for this growth exists, and should be sought, by government and industry working together.

The consultation paper considers a number of different issue sets related to the ease of doing business in various sub-sectors; we would like to comment on two of these sub-sectors.

Issues related to Satellite Television Channels

Q1. Is there a need for simplification of policy framework to boost growth of satellite TV industry? If yes, what changes do you suggest in present policy framework relating to satellite TV channels and why? Give your comments with justification?

Q2. Is there a need in present policy framework relating to seeking permission for making changes in the name, logo, language,

¹ CASBAA (formerly the Cable and Satellite Broadcasting Association of Asia) is a non-profit trade association comprised of 100 companies dedicated to the promotion of multi-channel television via cable, satellite, broadband and wireless video networks across the Asia-Pacific region. Our member companies operate and invest in 17 different Asian markets. These companies have extensive experience in building and creating television infrastructure and quality programming to meet the needs of this region’s more than 500 million multi-channel TV households. CASBAA member companies include prominent content providers, satellite capacity providers, DTH operators, conditional access and middleware technology providers, and other technology providers active in the Indian market.

format, etc. related to an operational satellite TV channel? If so, what changes do you suggest and why? Give your comments with justification?

Q3. Do you agree with some of the stakeholders comment at preconsultation stage that Annual Renewal process of TV channels needs simplification? Give your comments with justification?

Q4. Do you agree with stakeholders' comments that coordination with multiple agencies/ Government departments related to starting and operating of a TV channel can be simplified? If so, what should be the mechanism and framework for such single window system? Give your comments with justification?

The consultation paper well describes the number of stages and relatively lengthy procedures currently required for uplinking and/or downlinking of each television channel distributed in India. This involves a long, multi-stage and multi-agency process, in which each agency regards its own procedures as fixed and autonomous, and where matters are handled through laborious and outmoded manual processes and paper communications. At each stage, the process is subject to delay of indeterminate length for non-transparent reasons. Lengthy delays for security clearances have been a particular problem.

With respect to TRAI's "policy framework" query, we believe that, in terms of "ease of doing business," the policy underpinnings should not be an issue. For example, we understand and support the policy goal underpinning the requirement for security clearances. However, we believe the administrative and procedural frameworks could be greatly improved in a manner that would yield significant improvement in the ease of doing business, while remaining faithful to India's policy goals.

Therefore, our suggestions focus heavily on these administrative and procedural aspects.

1) Single Window: The concept of a "single window" is appealing, but only if a single agency is effectively empowered to administer and drive the process. MIB, as the lead supervisory ministry for our industry, is well-positioned to assume this responsibility; but it must be empowered to ensure active cooperation by the other involved agencies/ministries. This means it must be given the administrative tools (such as timelines; see below) to establish an integrated process for consideration of applications, and to move the processing along, where there are no exceptional questions. It is not enough to simply state that a single address has been established for receiving applications; a true "single window" must be created in letter and in spirit by rules that give the window operator real authority over the processing. Finally,

MIB must be given the resources necessary to modernize the handling of applications (moving away from manual, paper processes).

2) Administrative Changes: Whether or not it is possible to implement a true “single window,” we believe that administrative changes could independently produce significant improvements over existing processes:

-- Clear timelines and processing benchmarks can be established by the government, for action by the various agencies. An agency might, for example, be given a reasonable 15-day period to approve an application or – where it has well-founded doubts about an applicant – it could issue a statement of objection, and require further time. (Such objections should not be tolerated as routine ways of handling all applications; they should be exceptional.) In the absence of a well-motivated objection, MIB should have the authority to move forward with the license. Maintenance of the benchmark timelines even for, say, 90% of applicants would achieve greatly improved results for the vast majority of business applicants.

-- Repeated consideration of the same issues should be significantly streamlined. In the process of security clearance, for example, once a person has been adjudged not to pose a security threat, that determination should be valid for a defined period – say, five years. During that period, a new application by the same individual(s) should not require *de novo* security review – a new channel application can be approved on the strength of the existing determination. (Of course, where the authorities have any real reason for concern, a *de novo* review could be conducted – but again this would be unnecessary in the vast majority of cases.)

-- The burden of achieving compliance should be reversed for minor matters. The TRAI rightly points to operational changes in logo, name, addition of new languages, etc. as relatively minor matters. Such minor matters could be handled through a notification system – where the operator must notify MIB and then wait for a defined period (say, 15 days) to see if any statement of objection is forthcoming. In the absence of such a statement, the operator could be freed to make the changes.

-- Along the same lines, we agree that the requirement for annual renewal of each TV channel license should be replaced by a requirement for notification (so that the relevant ministries/agencies can be sure no salient facts have changed.) This can be coupled with provisions for discretionary license review by MIB, even where the broadcaster has permission for a longer operating period, in cases where the Ministry has a demonstrable need to review the license.

-- The requirement for separate authorization of SD/HD/4K licenses for each variant in transmission format should be abolished, as long as the content of the channel is the same. One authorization should be valid for all formats.

3) Policy on Sports Broadcasters: This is a “policy” change mooted in the consultation paper that we would support – change in the status of sports channels to make it easier for them to avail the support of transmission infrastructure support. As the paper notes, sports broadcasters have a need to constantly utilize uplink/downlink facilities from widely disparate locations for live feeds of events. This is an operational requirement that sets them apart from the majority of general entertainment channels. We would support creating a separate “sports” genre in the regulations, to make it easier for sports broadcasters to organize their event feeds. Suitable mechanisms should be developed to facilitate sports channel utilization of approved SNG/DSNG or telecom infrastructure for contribution links.

Issues related to DTH/Teleports/HITS

*Q6. Do you feel the need to simplify policy framework for seeking permission/ license for starting and running of following services–
(iii) Teleport services
(iv) DTH service*

If yes, what changes do you suggest so that process of grant of permission/ license can be simplified and expedited? Give your comments with justification.

CASBAA agrees that the current policy and procedural frameworks impose excessive burdens on stakeholders seeking to pursue business in this sector. We support simplification of the frameworks by removing steps from the current application procedures, which, as noted in the consultation paper, is a convoluted, multi-stage process.

As in the case of satellite TV channels discussed above, we believe the establishment of an effective single window for processing applications would greatly improve ease of doing business. At a minimum, we strongly support the consultation paper’s suggestion of a holistic, top-down review of the current provisions, to see how the process can be simplified while respecting the real needs for coordination and monitoring.

Some current processes are redundant and serve no meaningful public policy purpose. For example, the process to allow DTH operators to enter into contracts with international satellite operators should be simplified through allowing all industry players, including DTH operators, to procure capacity on

international satellites already coordinated and approved with the INSAT system without any additional approval from ISRO. Similarly, DTH operators should be allowed to add transponders on satellites where they are already present (and hence approved by ISRO) without seeking additional approvals.

Pending the necessary bureaucratic cooperation and coordination, substantial improvements can be made administratively, through the same type of measures suggested for TV channel licensing: creation of meaningful, standard timelines, with deadlines for agency/ministry decision-making, would be essential.

Q7. As per your understanding, why open sky policy for Ku band has not been adopted when it is permitted for 'C' band? What changes do you suggest to simplify hiring of Ku band transponders for provision of DTH/HITS services? Give your comments with justification.

Q8. What are the operational issues and bottlenecks in the current policy framework related to –

(iii) Teleport services

(iv) DTH service

How these issues can be simplified and expedited? Give your comments with justification.

CASBAA has sought implementation of a less restrictive policy for Ku band for well over a decade. We have commissioned studies and warned government agencies that a “capacity crunch” for Ku band broadcasting was approaching, and of course it is now upon us. The situation is worsened by the proliferation of HD programming – increasingly needed by the industry as a tool to meet consumer demands, but consumptive of higher bandwidth.

Most recently, PwC researched and wrote developed a “thought leadership” paper for us in mid-2016. That paper concluded that despite sometimes being referred to as “conditional open skies,” the policy for Ku-band was “in effect a very restrictive satellite policy as presently operated in India,” which “artificially suppress(es) demand, which in turn leads directly to a reduction in growth, profits, and therefore lower tax revenues,” and therefore is negatively affecting consumer welfare, private business, and the public interest.

(We believe the TRAI has seen this paper, but will attach a copy to this submission for convenient reference if desired.)

The consultation question asks why we believe a more open policy for Ku-band has not been adopted. There are two plausible reasons for implementing a policy of contracting all transponder capacity through ISRO/Antrix: one is stimulating utilization of Indian transponders and the other is security issues

involved in contracting from foreign operators. With such a high number of transponders in use today being carried on foreign satellites, the first reason has clearly lost its relevance. India would greatly benefit from allowing its companies to draw on overseas resources, rather than restricting their economic growth.

We are sceptical about the relevance of security requirements to contracting for Ku-band transponders, as the satellite network operator does not have any control over the content offered on licensed DTH broadcast platforms. Nevertheless, even if security requirements are accepted as a justification, we strongly recommend three administrative measures that can meet these requirements while simultaneously rendering the contracting process much more rational and transparent:

1. ISRO/Antrix can regularly publish a list of pre-cleared satellites and operators who are permitted to supply transponders to the Indian market. Indian DTH operators should be free to negotiate and contract capacities directly from them.
2. An efficient procedure can be established for DTH operators to obtain security clearance from ISRO before contracting the transponder capacity directly from foreign satellites.
3. Contracting for incremental capacity or extending the contracts of existing suppliers can and should be completely left for DTH operators without any need to seek additional, duplicative approvals from ISRO/Antrix. DTH operators would need to keep the ISRO updated with the contracted capacities and contract durations.

The consultation paper also raises the issue of the permitted duration of DTH transponder contracts (currently limited to three years). Changing this administrative requirement would yield huge benefits for Indian DTH operators by allowing them to leverage their size and stability in negotiations with transponder suppliers.

As an economic matter, satellite operations require significant upfront investment during the build and launch phase. Of the total lifetime cost of a satellite during the 15 years of its useful life, approximately 90% (satellite manufacture, satellite launch and launch insurance) is incurred before it becomes operational. While in India, telecom spectrum contracts are awarded for 20 years and FM radio spectrum is allocated for a period of 15 years, ISRO awards satellite transponders capacity agreements for just three years.

This adversely impacts Indian DTH operators in three ways:

1. Indian DTH operators lose out on commercial negotiations due to the short-term nature of the contracts offered by ISRO / Antrix. Foreign satellite operators pass this cost of uncertainty on to Indian DTH service providers.
2. Indian DTH providers must enter into lengthy commercial and contracting negotiations after every three years; this brings down operational efficiency and adds to the overall cost of operating their consumer platforms—costs which are ultimately shouldered by Indian consumers.
3. Foreign satellite operators, hampered by the lack of long-term visibility, do not proactively plan and deploy satellites to meet the full needs of Indian DTH markets.

Given ISRO's current and planned satellites, foreign satellites in Indian skies are now a fact of life. It is thus vital for India to make better and more cost-effective use of the permanence of foreign satellites.

Therefore, CASBAA recommends that the relevant policy regimes should be altered or adjusted to get maximum benefits from longer duration of commercial terms.