

**VIA E-MAIL**

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

**Re: Response from Intelsat to Consultation Paper No. 16/2017  
Consultation Paper on Issues relating to Uplinking and Downlinking Television Channels in India,  
dated 19<sup>th</sup> December 2017**

Intelsat Corporation greatly appreciates the opportunity afforded by the Telecom Regulatory Authority of India (TRAI) to provide comments to the *Consultation Paper on Issues relating to Uplinking and Downlinking Television Channels in India*, Consultation Paper No. 16/2017 (the “Consultation Paper”).

Intelsat operates the world’s first Globalized Network, delivering high-quality, cost-effective video and broadband services anywhere in the world. Intelsat’s globalized network combines the world’s largest satellite backbone with terrestrial infrastructure, managed services and an open, interoperable architecture to enable customers to drive revenue and reach through a new generation of network services. Thousands of organizations serving billions of people worldwide, including end users in India, rely on Intelsat to provide ubiquitous broadband connectivity, multi-format video broadcasting, secure satellite communications and seamless mobility services. The end result is an entirely new world, one that allows us to envision the impossible, connect without boundaries and transform the ways in which we live.

India is an important market for Intelsat and for the provision of broadcast services. Satellite services play an important role in the development and delivery of media content throughout India, from informative news and information programming, to must-watch sporting events and television shows. As TRAI observes in the Consultation Paper, broadcast media is a “powerful purveyor of ideas and values, and plays a pivotal role in not only providing entertainment but also disseminating information, nurturing and cultivating diverse opinions, and educating and empowering the people, which are must in a democratic society.”<sup>1</sup> The Consultation Paper seeks to update the satellite uplinking and downlinking guidelines, with the goal of fostering growth in the Indian broadcast market. TRAI’s objective, as stated in the Consultation Paper, is to modernize the guidelines to “ensure orderly growth of the broadcasting sector, and in-turn provide impetus to socio-cultural and economic development.”<sup>2</sup>

Intelsat notes at the outset that TRAI should expedite the process of this Consultation Paper and issue its recommendation to the Ministry of Information and Broadcasting (MIB), since MIB currently is not issuing any new TV Channel licenses or other permissions related to TV Channels or Teleports. The sooner TRAI considers the matters at hand and issues its recommendations, the faster the broadcasting sector in India would come back to normalcy.

Intelsat also notes that several of the proposals in the Consultation Paper are inconsistent with TRAI’s stated objectives and, if implemented as proposed, could stall growth and investment in the Indian broadcast sector. As

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<sup>1</sup> Consultation Paper, para. 2.30.

<sup>2</sup> *Id.*, para. 1.7.

an initial matter, the Consultation Paper seems to focus on measures that would increase revenue sources for the Government from the growing media market in India, while at the same time increasing the incentives for broadcaster to use domestic communications facilities. Intelsat urges TRAI to review existing uplinking/downlinking policy guidelines with the intent of encouraging the growth of the vibrant broadcasting sector in India, adopting changes that seek to improve the framework for the sector and encouraging private investment, not otherwise.

In this regard, Intelsat agrees with the separate comments of CASBAA in this proceeding, and the belief that: (i) consumers benefit from diversity and access to innovative services offered by global networks, and (ii) true and lasting economic benefit to India comes from marketplace competition that generates jobs and supports growth in other industries down the value chain (e.g., advertisement, content creation, etc.). As stated by CASBAA in its separate comments, “[b]oth of these objectives are achieved by encouraging industry investment in serving the Indian public, including investment by foreign satellite operators.”<sup>3</sup>

In the Consultation Paper, TRAI seeks comment on whether, and if so, how it should auction satellite TV channel licenses. TRAI proposes to auction a “complete package” that includes authorization to (i) uplink from Indian soil to an Indian satellite, and (ii) downlink in India, while further restricting use of foreign satellites.<sup>4</sup> Intelsat is of the opinion that TRAI should reject such proposals. The use of auctions as a means of granting licenses for satellite-based broadcast services is not the appropriate regulatory instrument for licensing. Auctions are suitable for services that have exclusive spectrum allocations, but are ill-suited as an administrative mechanism to license services that rely on shared spectrum, such as fixed-satellite service stations (FSS) and broadcast-satellite service (BSS) stations. The spectrum used by satellite operators to provide satellite-based services is shared with other satellite operators in the same coverage area, and also with other services, including terrestrial services. Therefore, auctions are not a suitable mechanism to assign licenses for satellite-based services. Rather, a rational, efficient and expedited administrative mechanism for such licenses must be used.

TRAI proposes to define downlink channel operationalization as the date when the licensee begins TV channel distribution through registered Distribution Platform Operators (DPOs) on a continuous basis (i.e., service interruption does not extend beyond 7 days, except in cases of *force majeure*). TRAI also proposes to require downlink satellite TV channel licenses to submit a PBG to incentivize buildout and discourage unauthorized discontinuation of service.<sup>5</sup> The operationalization definition, as proposed in the Consultation Paper, does not appear to adequately account for circumstances that may be outside of the licensee’s control and that may not rise to the level of *force majeure*. TRAI should revise its definition to reflect this or, at minimum, provide licensees an opportunity to explain why a penalty is not warranted.

In addition, TRAI requests comment on whether its existing policies for license assignment -- requiring prior approval from MIB -- are adequate. To discourage the “hawking or trading or leasing of licenses,” TRAI proposes to implement a lock-in period (e.g., three years) prohibiting licensees from transferring their authorization until some years after the date the channel became operationalized.<sup>6</sup> Adoption of an inflexible arbitrary lock-in period could senselessly restrict legitimate business transactions that may ultimately benefit the public interest. Should TRAI nevertheless adopt a lock-in period or other such restriction, Intelsat is of the opinion that licensees should be provided a meaningful opportunity to show that waiver of the lock-in period would be in the public interest.

TRAI also seeks comment on whether it should increase its application fees, entry fees, and/or license fees. TRAI requests comments on whether, in lieu of an annual licensing fee, it should adopt a variable, revenue sharing model (e.g., 8% of annual gross revenues) like its fee structure for FM Radio Broadcast and Direct-to-Home (DTH) satellite licenses. Alternatively, TRAI seeks comment on whether to adopt a semi-variable fee structure, where the annual license fee is a percentage of annual gross revenues subject to a fixed minimum fee.<sup>7</sup> Consistent with proposals in

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<sup>3</sup> CASBAA Response to TRAI Consultation Paper.

<sup>4</sup> Consultation Paper, paras. 2.25-2.37, and 4.5-4.9.

<sup>5</sup> *Id.*, paras. 2.62-2.69, and 4.18-4.19.

<sup>6</sup> *Id.*, paras. 2.70-2.78, and 4.20-4.23.

<sup>7</sup> *Id.*, paras. 2.23-2.24, 2.38-2.53, 4.4, and 4.10-4.16.

the recent Consultation Paper on the formulation of a National Telecom Policy,<sup>8</sup> TRAI should look to ease barriers to market entry, and not promote measures that are contrary to these goals. TRAI therefore should not increase application, entry, or licensing fees and should retain its fixed, annual licensing fee structure. This approach offers simplicity and predictability for both the Government and industry.

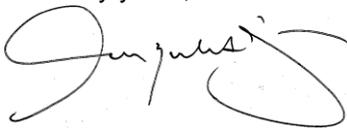
Intelsat also takes the opportunity to caution against imposing excessively high barriers to entry by new broadcast service providers, whether it be new players to the market or established companies already in India. In all cases, fees should be reasonably related to the administrative costs of the regulated activity. In addition, TRAI should provide parity in downlink entry fees between programming originating from India and abroad. The downlink service entry fee currently applies only to operators transmitting programming uplinked outside India. This artificially introduces a biased competition between local and international channel providers, and between local and international satellite and teleport operators.

TRAI asks whether it should mandate encryption of all satellite TV channels, including Free-to-Air (FTA) channels.<sup>9</sup> Intelsat notes that mandatory encryption would increase the cost of providing downlink services, inadvertently discouraging investment in FTA services. The decision to encrypt content should be made by the market, not by the Government.

TRAI also seeks comments on whether to limit the number and location of teleports in India.<sup>10</sup> Limiting the number or location of teleports would unnecessarily restrict satellite operators and the broadcasters they serve. Such restrictions will adversely affect the coverage, availability and/or rates of uplinking facilities for TV channels in India, and should not be implemented.

Intelsat appreciates the opportunity to provide responses to the Consultation Paper and encourages TRAI to pursue changes to the uplinking/downlinking guidelines that enable advancements in the Indian market through industry and foreign investment, as well as providing value and choices to Indian consumers and businesses.

Sincerely yours,



Gonzalo de Dios  
Associate General Counsel

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<sup>8</sup> *Consultation Paper on Inputs for Formulation of National Telecom Policy – 2018*, Consultation Paper No. 01/2018, dated 3<sup>rd</sup> January 2018.

<sup>9</sup> *Id.*, paras. 2.54-2.61, and 4.17.

<sup>10</sup> *Id.*, paras. 3.14-3.22, and 4.31-4.34.