

Bharti Telemedia Response to TRAI Consultation Paper on Issue/Extension of DTH Licence

At the outset we would like to thank the Authority for initiating a consultation exercise on the issue of extension of DTH Licences.

The purpose of this consultation paper is to frame a structure of the Entry fee, Bank guarantee and the Validity of a DTH Licence upon expiry of the same.

In this regard, we wish to submit that the DTH operators have invested thousands of crores to shape/boost the digital platform in the Indian entertainment and current affairs TV market and the business is yet to achieve profitability in operations. DTH operators also face an arduous tax & levies regime of over 35% of their revenues which is significantly high compared to their competitors in the digital TV business. It is therefore, imperative that DTH operators should be given more time to execute their business plans and to continue enriching the digital viewing experience for the masses. In the backdrop of huge capital deployment and the financial hardships faced by the DTH industry, we submit that the *validity of the existing DTH licenses should be increased to 20 years through an amendment in the license and no Entry fee should be charged for increasing this validity.* This will not only enable the existing DTH licensee to continue offering world class digital TV services and recover their investments but will also encourage them to make further investments in technological advancement and futuristic business expansion.

We further suggest that the following aspects may kindly be considered before any policy for extension or issue of new licences for DTH is finalized:

- 1) Ensure healthy Competition
- 2) Business Continuity for existing DTH Licensees
- 3) Sustainability of DTH by reducing financial burdens on the industry
- 4) Time bound clearances for resource allocation

1) Ensure healthy competition:

Prior to the advent of DTH, the only source of distribution of TV Channels was through cable. To have an alternative to Cable and provide better services to the consumers, the Government of India issued the first DTH License in the Year 2003 subsequent to which, 6 DTH Licenses have been issued till date. These operators are competing with Cable TV operators who are registered entities and do not have the same financial burdens such as License fee as levied on the DTH industry. *Therefore, in order to ensure healthy competition in the digital signal market and to avoid any monopolistic situation in the distribution of TV channels, it is imperative that the validity of the existing DTH licences should be increased and the operators should be incentivized with reduction in duties and taxes.*

2) Business Continuity for existing DTH Licensees

All agreements and contracts of a DTH licensee are signed under the existing licenses granted by Ministry of Information & Broadcasting. All frequency allocations, satellite bandwidth, broadcaster agreements are under these existing licences. Thus, the validity of these contracts is co-terminus with the validity of DTH licenses.

Further, issuance of any 'new license' for existing DTH operators has wide implication on business continuity as all existing contracts/agreements with ISRO, WPC and broadcasters have to be renewed which is not only time consuming but has financial implications in terms of renewal of charges.

It is therefore, requested that the *validity of existing DTH licenses be increased rather than issuing new licences.*

Moreover, there are no resources such as Spectrum, bundled with any DTH license. Each allocation is applied afresh and paid for separately and it has no impact on the entry fee for a DTH license. **Therefore, entry fee need not be revised and no additional entry fee needs to be charged for increasing the validity of existing licenses.**

In view of the above, we request that instead of a 'new licence' being issued to existing DTH operators, the validity of the existing DTH licenses should be increased to 20 years through an amendment in the license with a provision for renewal of validity of 10 years at one time in the future. Moreover, no further Entry fee/fee should be charged for increasing this validity to 20 years.

3) Sustainability of DTH by reducing financial burdens on the industry

DTH service industry is currently going through a tough phase and is burdened with an arduous tax & levies regime to the tune of over 35% **which includes licence fee (10%), service tax (12.36%) and entertainment tax (~11%)**. Major costs for a DTH operator include Satellite bandwidth, technology platform, national sales & distribution network, installation, servicing logistics, broadcasters/content fees, customer care, license fees, customs duty, VAT, entry fee, entertainment tax etc. The DTH industry currently subsidizes DTH CPEs in the range of Rs. 2,200 and Rs. 2,700/- to make them affordable for customers. This subsidy is a substantial cost on DTH industry adding to the accumulated losses each year.

In addition to the above, Entry fee of Rs. 10 Crores and a Bank Guarantee of Rs. 40 Crores which is co-terminus with the validity of the license is paid to the Government. This Bank guarantee is

required to be renewed / continued for a period of 10 years currently which poses a further financial burden for many licensees.

Due to such a steep taxation regime governing the DTH sector, no DTH operator has been able to make profits in last 10 years despite having a consolidated registered subscriber base of more than 50 Million subscribers.

We therefore believe that the period of 10 years is too short as it creates a certain amount of uncertainty in the operator's business model and inhibits future business expansion in terms of deploying new technologies or undertaking long term capacity enhancement. Additionally, investors both foreign and domestic may want a certain minimum period which is not too low. It is therefore important that the existing DTH operators should be **given more time to execute their business plans and to make this debt ridden industry profitable.**

In view of the above, we also request that:

Financial impetus in the form of reduction in Licence fee is provided to the DTH industry. The licence fee should therefore be reduced to '6% of GR'. This is in line with TRAI recommendations dated 15th April 2008 wherein the Authority has recommended that the L.F. for DTH should be reduced to '6% of GR'.

4) Time bound clearances for resource allocation

Every DTH service provider has been allocated a particular orbital slot for operating its services, for e.g. 102.8' E for Airtel Digital TV. We submit that DTH operator should be allotted additional bandwidth within the same orbital slot to cater to the technical requirement. Lack of capacity effectively denies DTH operators' the opportunity to provide more channels to customers and be an effective alternative to cable, who are not dependent on transponders to carry channels. Moreover, DTH operators have to wait for Satellite bandwidth allocations for a longer period which adversely impact their competitive capability to provide a wider choice to customers.

It may be kindly noted that in the absence of time bound clearances of satellite bandwidth and frequency allocation 10 years is extremely short a period for any DTH licenses to establish a feasible business model to offer services.

It is therefore urged that there should be a time bound clearances for additional bandwidth allocation to DTH operators within the same orbital slot.

Our response to the issues raised for Consultation is as below:

1. Should an entry fee be charged at the time of issue of a new licence to the existing DTH licencees?

In case an entry fee is to be charged, what should be the quantum of such entry fee?

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The validity of the existing DTH licenses should be increased to 20 years and no further Entry fee should be charged for increasing this validity. The rationale thereof is as below:

- The existing DTH operators have already paid one time entry fee of Rs.10 crores during the issuance of the Licence and are paying a hefty amount as annual licence fee to the Government. **Thus, there should not be entry fee levied on the existing DTH operators during extension/increase in the licence validity.** However for the sake of parity, any new entrant should be charged an entry fee of Rs. 10 crores. This would act as a deterrent to those who are not serious to provide the service.
- In the Consultation paper for Phase 2 FM radio dated 14th April 2004, TRAI has rightly stated that entry fee is a one- time fee imposed by the government to allow entry into the market and/or allocate licencees under competitive situations. The Authority's view that entry fee is levied to judge the seriousness of a new DTH licencee is right. **Thus, the concept of entry fee is one- time fee and not payable at the time of increase in validity of existing DTH licencees who have already proved their seriousness in the sector.**
- It would not be out of place to mention that the recently issued Unified licence (UL) which allows various services including IPTV seeks an entry fee of Rs 15 Crores for 20 years licence. Thus compared to UL, an entry fee for increasing the validity of DTH licence should be nil.
- In addition to above, we reiterate that DTH operators are facing an arduous tax & levies regime which is significantly high compared to their competitors in the digital TV business. Thus any new entry fee will add to the financial burden of existing DTH Licencee.

2. What should be the period of the DTH Licences to be issued to existing DTH licencees on the expiry of the licence period of 10 years? AND

3. What should be the period of extension/renewal of the licences, to be prescribed in the DTH Guidelines, for the extension/renewal of the new DTH licences on their expiry?

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We believe that the validity of the existing DTH licenses should be increased to 20 years through an amendment in the license with a provision for renewal of validity of 10 years at one time in future. The rationale thereof as stated in the prelim above is reiterated as below:

- DTH operators are facing steep taxation regime compared to their competitors in the digital signal business and are not been able to make profits in last 10 years despite having a consolidated registered subscriber base of more than 50 Million subscribers. **We are therefore of the view that validity of the existing DTH licence should be increased to 20 years** so as to enable them to execute their business plans and to keep expanding in terms of deploying new technologies for better digital viewing experience.
- We also submit that the issuance of any new licence for existing DTH operators has wide implication on business continuity as all existing contracts/agreements with ISRO, WPC and broadcasters have to be renewed which is not only time consuming but has financial implications in terms of renewal of charges.
- In view of the above, it is submitted that the **validity of the existing DTH licence should be increased to 20 years.**

4. What should be the quantum and the validity period of the bank guarantee to be furnished by an existing DTH licensee on the issue of a new licence?

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As per the DTH licence there is no linkage between the bank guarantee and the safeguard against non-payment of L.F and violation of licence conditions.

Moreover, it appears that the bank guarantee was to ensure the seriousness and roll out obligations of the new DTH licensee and none of the conditions is applicable to the existing DTH operators. We therefore opine that there should not be any bank guarantee for existing DTH operators during increase in the validity of their licence to 20 years.

Notwithstanding the above, Bank Guarantee should be reduced to 50% of the existing Bank guarantee of Rs 40 Crs.

5. Any other relevant issue you would like to comment upon.

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- **The license fee should be reduced to '6% of GR':**

We support TRAI recommendation dated 15th April 2008 regarding reduction of DTH operators' L.F. to '6% of GR'. The reduction in L.F. would not only prove as a breather to the

beleaguered DTH industry but will also ensure healthy competition in the digital signal distribution market as DTH operators are paying much higher taxes and levies compared to their competitors i.e. digital cable operators, HITS etc.

- **Definition of GR:**

The definition of GR should have revenue from DTH services only. Moreover, it should allow for the deduction in all Taxes, Import Duty, License Fee paid to Broadcasters, Satellite Bandwidth & WPC charges paid to ISRO/DoT.

We also submit that like UASL/UL, DTH operator should move towards paying L.F. on AGR basis. TRAI may issue a separate consultation in this regard.