

**RESPONSE OF DISH TV INDIA LTD. TO THE  
CONSULTATION PAPER NO. 9/2013 ON  
ISSUE/EXTENSION OF DTH LICENSE DATED 01 OCT  
2013.**

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Dish TV India Ltd wishes to submit its response to various issues raised in the consultation paper on extension/renewal of the DTH licenses.

**PRELIMINARY SUBMISSIONS:**

1. It has been a decade since the DTH services were started by Dish TV India Ltd. From a single player industry in 2003 , at present there are six licensed DTH service providers and they have been significantly contributing to the implementation of digitalization initiative of the Government. In addition, the Prasar Bharati has also launched its DTH services under the name DD Direct Plus which provides about 59 no. of FTA channels to the consumers.
  - 1.1 DTH has become one of the most important source of dissemination of news, views, knowledge & current affairs to masses even in villages & the remotest parts of the country because of its wider reach. Besides entertainment channels, DTH operators are delivering lot of infotainment channels such as Lok Sabha channel, National DD channel and various regional channels of Prasar Bharati which keep the masses informed and aware of their rights and current developments in various spheres besides imparting knowledge.
  - 1.2 As submitted hereinabove, DTH is an important tool to drive digitalization and to penetrate into the areas where the cable TV has not yet reached. The estimates based on the market research conducted by Media Partners Asia show that India has maximum potential for DTH service growth in Asia. There are far flung rural and remote areas where the dwelling pattern is not clustered and Cable TV in these areas is unviable. DTH being a satellite driven technology, because of its wider reach can service these areas and thus the people living in those places, can also have access to satellite television. Even the people living in hilly areas and defense personnel deployed at high altitudes where cable service cannot reach, are availing the DTH services and taking benefit of DTH operations.

- 1.3 DTH is highly capital intensive sector. The DTH service providers have already invested in totality USD 4500 million. However, on account of heavy burden of license fee, multiple taxation, high content cost and skewed Government policies & regulations, the DTH operators have already incurred a combined losses of 2500 USD million and there is no possibility of even achieving “breakeven” in near future .
- 1.4 The DTH sector which started with an incidence of only License Fee of 10% of GR was seen as a “segment” which could be taxed easily as the service providers were from Corporate sector and there was total transparency in the provision of service in terms of the number of subscribers etc. on account of addressability viz. SMS & encryption etc. First the Central Government imposed the service tax and then subsequently various States started imposing Entertainment tax. Today a DTH service provider pays more than 33% of its revenues in terms of taxes and levies. Besides, there is a heavy burden of import duty and other levies such as VAT etc. which have been detailed in subsequent paragraphs.
- 1.5 The success of DTH which is an important tool of implementing digitalization depends upon whether it can provide content at par with the cable operations at comparable prices At present the cable services enjoy advantage vis-à-vis DTH in terms of initial investment by a consumer in customer premises equipment, the subscription charges, taxation policies etc. There is no license fee on cable operations. In case of DTH since the content is delivered through satellite, there is an associated high cost of transponder lease, spectrum royalty, monitoring charges etc. Besides, the DTH operator is also liable to pay 10% of its gross revenues as license fee to the Govt. This renders the DTH services quite costlier vis-à-vis cable services. Pay broadcasters have seen DTH as an easy target because of the transparency it brings and it is a matter of fact that a sector which has around 30% of the market, pays above 60% of the pay broadcasters revenue. Accordingly at present there is a need to provide level playing field to DTH operators by correcting the existing anomalies in license fee structure, taxation policies etc.
- 1.6 At present the DTH operators have to provide subsidies on Customer Premises Equipment (STB) and on subscription fee as well, in order to popularize and achieve the penetration in the market which was hitherto before had been mainly dominated by analogue cable. The heavy license fee coupled with taxation burden has resulted in huge losses for DTH operators which are clearly reflected in their financial statements.

If the license fee and other taxation levies are not rationalized, the DTH companies may not be able to sustain these losses for long period and the digitalization initiative in the sector would suffer a great setback.

- 1.7 The DTH sector has always been hampered by the low ARPU of the incumbent players which is the cable sector which has been enjoying the advantage of charging heavy carriage fee from the broadcasters and thereby subsidizing their net content cost/payout coupled with under-declaration of the number of subscribers. Typically a cable operator pays an effective pay channel cost of Rs. 6/- per subscriber per month as compared to Rs. 65/- per subscriber per month by a DTH operator.

In the light of above, there is an imperative need for the Regulator and the Licensor to bring parity among the service providers (viz DTH & cable service providers) which are engaged in providing a similar service to the ultimate consumers viz. delivery of channels. Accordingly, it is suggested that apart from the specific issues raised in the consultation paper, the additional issues/points highlighted by us which are also detailed in para 2.5 below be also considered by the Regulator on priority as they are quite critical for the survival of the sector and provide the DTH a level playing field vis-à-vis other service providers.

- 1.8 It is well recognized in the industry that when the initial License Agreement Terms and Conditions were issued, there was no precedence of granting of DTH licenses. The operating environment was also different in terms of the availability of satellite capacity which was readily available or could be provided by ISRO/DoS. The DTH service, based on experience in other countries was also seen as a potentially very profitable service and the license terms and conditions were framed accordingly. However, as detailed hereinabove the reality is otherwise. All the DTH operators are reeling under heavy losses. The operations, financially, over the last ten years have shown a very different picture and there is a consequent need for amendments to make the DTH industry a vibrant one and a viable medium of delivery of Pay TV services across the country. The renewal of the License Agreement now permits this opportunity.

With these remarks our response to the various issues is being given hereinafter:

**2.1 *Should an entry fee be charged at the time of issue of a new licence to the existing DTH licensees ?***

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

**Dish TV Response :**

2.1.1 **In our view, no entry fee should be charged at the time of issue of license to the existing DTH licensees for the reasons given hereinafter.**

2.1.2 The entry fee is normally levied to deter the non serious players from entering the sector and based on the capital investment/expenditure required to set up the service infrastructure and the likely no of service providers applying for the license.

2.1.3 As the DTH services are highly capital intensive and require heavy investments in terms of the setting up the earth station, encryption, SMS systems and turnaround facilities etc and then the arrangements with the satellite providers, only the entities who are serious & long term players, apply for the license and pursue the same.

In the consultation paper itself, the Authority has mentioned that in the case of the Telecom sector Entry fee is “**one off fees**” to meet the objective of eliminating the non serious players.

2.1.4 In its recommendation on HITs dated 17<sup>th</sup> Oct 2007, the Authority had recommended Entry fee as a deterrent for a non serious player. This was clearly mentioned in para 2.49 – “the analysis of the issue” which reads as under:

*Analysis of the issue*

*2.49 It is advisable and also in consumer’s interest not to have non-serious player in the market when the issue is offering services at all-India level. Since HITS is a pan India operation, **the entry fee is one such measure which will act as a deterrent for a non serious player.** The Authority is of the firm view that since HITS operations will be country-wide, there should be an entry fee and the amount of entry fee should be at least equal to the entry fee of DTH operation which is also an all India operation*

2.1.5 The attention in this regard is also invited to the following extracts of DTH licensing guidelines :

*Procedure for application and grant of licenses:*

- To apply to the Secretary, Ministry of I&B, in triplicate, in the prescribed pro forma (Form-A )

- On the basis of information furnished in the application form, if the applicant is found eligible for setting up of DTH platform in India, the application will be subjected to security clearance of Board of Directors as well as key executives of the company such as CEO etc. in consultation with the Ministry of Home Affairs and for clearance of satellite use with the Department of Space. (Amended vide order No. 8/12/2006-BP&L dated 31.7.2006) ,

- After these clearances are obtained, the applicant would be required to pay **an initial non-refundable entry-fee of Rs.10 crores** to the Ministry of Information and Broadcasting.

2.1.6 It may be appreciated that the use of the word “initial” in the context of entry fee itself indicates that it is a one time fee only. If the intention was to charge the entry fee again at the time of renewal/grant of new license to the existing licensee, the words “initial” would not have been used in the guidelines. In addition, once the platform becomes operational, the concept of the entry is over. In case of renewal of license after the expiry of initial term, there is no question of a service provider entering into the sector as it had already become operational and has been providing the continuous service during the term of the license. The operator who has been providing the services for the ten year period should not be asked to pay this fee again as this cannot be construed as an initial fee for it and rather it is continuation of the business operations for the operator. The TRAI has already observed in paragraph 1.6 of the Consultation Paper that :

*.....if the entry fee levied at the time of granting the DTH licence was solely to judge the seriousness of the entities seeking the DTH licence and to cover the cost of inducting of a service provider, then at the time of issue of a new licence to an existing licensee, the entry fee ought not to be levied as the DTH operator had already proved its bonafides in the sector and the cost of inducting a service provider is not a recurring cost to the licensor.*

Thus an existing operator should not be asked to pay the entry fee again on the renewal of the license/issue of new license after the expiry of the initial term.

**2.2. What should be the period of the DTH Licenses to be issued to existing DTH licensees on the expiry of the license period of 10 years?**

**Dish TV response :**

- 2.2.1 It is a standard business practice that once an entity applies for a license to operate a service , it considers itself a long term player as service like DTH need considerable amount of investments in building the infrastructure, maintaining it and also recurring investments for providing the services to the consumers.
- 2.2.2 In services like DTH, the investments are required not only at the time of setting up the infrastructure at the operator end but also at subsequent stages of operations, as huge subsidies are pumped in to acquire the customers. It is expected that those subsidies would be recovered over a period of time on the renewal of the services by the subscribers. As the TRAI has rightly analyzed, a DTH player invests a large amount of capital, technology and resources in developing the network. This rollout takes well over 5 years as millions of subscribers installations are to be made and requisite distribution, CRM,SMS, Call Centre and other software services need to be put in place. On a conservative basis the extended enterprise of a DTH operator including its distributors, resellers, field installation agents, call centre staff etc. exceed 600,000 personnel for serving a base of 5 Million customers. With these investments in resources, capital, technologies it is reasonable that the DTH licenses should be long term licenses.
- 2.2.3 Since DTH projects have long gestation period, the investment comes in the form of the Equity from the promoters, strategic investors and by way of debt from the Banks and Financial institutions who regard the investments in DTH as long term investments. Such investments are expected to generate revenue over a period of time so as to provide an appropriate and reasonable return on the investments made by them. Accordingly, in order to commit long term investment in such ventures, the investors look for certainty in Government policies with regard to the continuity in the business operations of an enterprise subject to stipulated regulatory compliances. Needless to mention that if there is no certainty of continuation after the expiry of initial licensing term, the entire investment made may be exposed to the risk of getting jeopardized in the event of non-renewal. This would adversely affect the potential investment in the sector and would also negate the efforts of the Government inter alia including the liberalization of the FDI

regime so as to attract FDI in the sector.

- 2.2.4 The DTH operator also needs to build long term relationships with the customers and ensure that they have continuity of use of equipment resulting in lower depreciation and ultimate cost to customer.

Development and new technologies such as DVR boxes, interactive services, two way communications etc. are all time consuming and take many years to establish. A consumer also takes service from a service provider in the expectation that he will continue with the services for a long time unless he is dissatisfied with the quality of services provided or the charges of thereof.

**Thus in our opinion 15 years should be the period of the DTH licenses to be issued to the existing DTH licensees on the expiry of the license period prescribed in their existing license.**

**Further an appropriate amendment should be made in the DTH guidelines, prescribing a period of 15 years for the renewal of the DTH licenses on their expiry.**

- 2.3 ***What should be the period of extension/renewal of the licenses, to be prescribed in the DTH Guidelines, for the extension/renewal of the new DTH licences on their expiry?***

**Dish TV response:**

As submitted hereinabove, 15 years period of the renewal/extension should be prescribed in the DTH guidelines, for the extension/renewal of the new DTH licenses on their expiry.

- 2.4 ***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 license?***

**Dish TV response**

- 2.4.1 In this context, it may be stated that Bank Guarantee (BG) is normally required to ensure that after obtaining the license, the licensee should start its operations within the stipulated period. Accordingly, in the event of any default on the part of licensee in fulfilling its rollout obligations stipulated in the license, there is a provision in the licensing terms for the invocation of the guarantee and forfeiture of the amount stipulated therein. Thus, the stipulation of BG is primarily to ensure the performance of the licensing terms on the part of licensee and

therefore such BG is also termed as “performance guarantee”. The attention in this regard is invited to para 5 of the HITS guidelines which is reproduced as under:

*5.2 The HITS licensee should commence uplinking/downlinking operations within a period of one year from the date of issuance of SACF clearance by the WPC after obtaining wireless operational license failing which half of the bank guarantee will be forfeited.*

*5.3 If the operator does not start the service within two years from the date of issuance of SACFA clearance by the WPC , the full performance bank guarantee will be forfeited and action for revocation of the permission will also be considered on completion of two years from the date of issuance of SACFA clearance by the WPC.*

*5.4 If the HITS permission holder fulfills the roll out obligation within one year of issuance of SACFA clearance by WPC , then full amount of performance bank guarantee will be refunded. If the HITS permission holder meets the roll out obligation after one year but within two year of issuance of the SACFA clearance by WPC , then half the performance bank guarantee will be refunded.*

2.4.2 From the above, it is clear and apparent that the purpose of stipulating BG by the licensor is to ensure that licensee should meet its rollout obligations by commencing the operations within stipulated timeframe and does not keeps the permission inoperative.

**Dish TV would like to suggest that keeping in view that all the DTH operators have been operational for considerable length of time, the need to continue with the Bank Guarantee should be dispensed with. Accordingly, there is no need to stipulate the provision of BG at the time of renewal of license/grant of new license in case of existing licensees.**

2.5 **Any other relevant issue you would like to comment upon.**

**License fee:**

2.5.1 As per the present licensing terms, a DTH operator is required to pay a license fee @10% of its gross revenues. In this context, it is pertinent to mention that at the time of framing of DTH licensing guidelines and grant of DTH license i.e. in 2003, the Service tax and Entertainment tax were not applicable on DTH services. The price of the service was to be in line with the

incumbent player which was cable operator who had the advantage of the carriage fee being paid to them for carriage of the channels by the broadcasters and accordingly the content cost for cable distribution was virtually one tenth of the DTH players.

2.5.2 Subsequently, DTH services were subjected to Service Tax by the Central Government and Entertainment Tax by various State Governments. A comparison of DTH service with the cable sector would reveal the DTH services are subjected to heavy multiple taxation which inter alia includes Service Tax @12.36%, Entertainment Tax @25% and VAT on CPE @12.5%. In addition, if license fee @10% is also added, the cumulative levies would come to around 60% which renders DTH services totally unviable vis-à-vis cable services.

2.5.3 This fact was recognized by the authority and in its Recommendations on Issues relating to Broadcasting and Distribution of TV channels dated October 01, 2004 had appreciated the difficulty of the high incidence of taxation on the DTH sector. In order to bring a level playing TRAI had recommended a reduction in the license fee by 2% and also the concept of the AGR. The relevant extracts of the said recommendations are reproduced below :

*7.1 There is a fundamental difficulty in providing competition within the cable industry in the provision of last mile services. In some parts of the world this has been explicitly recognized and the local operator has been given an exclusive franchise in a given geographical area. This is not feasible in India given the way the industry has grown and evolved. The most feasible way of giving competition to the cable industry in the short run, is through DTH.*

*7.2 If there has to be competition between the two platforms then license fees, taxes etc. should all be made as uniform as is possible. To some extent given the differences in size, technology and reach, complete uniformity is not possible.*

*7.4 Presently DTH operators are being charged annual license fee of 10% of its gross revenue as reflected in the audited accounts. DTH operators' revenue include pay channel charges and sale of hardware and therefore a significant amount of license fee is payable on account of these. This license fee increases the cost of pay channels and hardware for DTH subscribers.*

*7.5 There is need to provide as even a playing field as possible, between DTH and the Cable industry given the differences in scale of operation and technology. The cable operators have to pay an annual fee of Rs.500/-. Taking a cable operator who has only 500 connections this means an average of Re.1 per annum. In contrast if we take the consumer bill for a DTH consumer with full content at Rs.300 per month a % revenue share comes to Rs.30 per month or Rs.360 per annum. Therefore from both angles – the need to maintain parity with cable industry and the need to popularize DTH as a mass market instrument there is a need to bring down the levels of license fee for the DTH operators. At the same time there is need to provide checks to ensure that the accounts are being correctly presented – this can be done by using the CAGs audit to ensure that there is no loss of revenue to the Government. Necessary changes should be made to the license conditions to incorporate these changes.*

2.5.4 Originally, the TRAI has recommended a reduction of 2% in the license fee for DTH i.e. 8% from the existing level of 10% which is to be calculated on Adjusted Gross Revenue (AGR). The AGR was to be calculated by reducing:

- (a) Subscription fee charges passed on to the pay channel broadcasters;
- (b) Sale of hardware;
- (c) Services/Entertainment Tax actually paid to the Central/State Governments, if the gross revenue had included them.

However, in the subsequent recommendations dated 15/4/2008, TRAI has proposed the license fee as 6% of the Gross Revenue, which recommendations the Ministry has accepted. It may be mentioned that 6% of Gross Revenue would result in realization of more revenue by the Govt. vis-à-vis 8% of AGR which is to be calculated after reducing the subscription fee paid to the pay channels by a DTH operator.

2.5.5 The TRAI in its recommendations dated 1/10/2004 has also stated that:

***7.7 TRAI has expressed its views in various recommendations that the telecom services should not be treated as a source of revenue for the Government. Imposing lower license fee on the service***

***providers would encourage higher growth, further tariff reduction and increase service provider revenues. With increased growth, it would be a win-win situation for the industry and the Government. The Government would also get higher license fee and service tax if revenue for the service provider increase.***

2.5.6 In view of the above, there is a strong case for reduction of license fee from the existing level of 10% of Gross Revenue to 6% of Gross Revenue realized from the **licensed DTH activity**. It is regretting to point out that though MIB has accepted the TRAI recommendations in this behalf still the matter is pending thus causing huge financial detriment to the DTH operators. There is an urgent need to implement the reduction in the license fee without further delay.

We accordingly request Authority to once again impress upon MIB to effect the reduction in the licensing fee in accordance with its recommendations dated 15/04/2008 by effecting necessary modifications in the licensing conditions.

### **Satellite Capacity**

2.5.7 DTH sector is today in a precarious position. As the cable sector is being digitized, the DTH sector is loosing its competitiveness on account of the fact that DTH service providers do not have the sufficient bandwidth to expand their channel offerings.

The DTH guidelines as they stand at present provide for the following:

***11.1 Though Licensee can use the bandwidth capacity for DTH service on both Indian as well as foreign satellites, proposals envisaging use of Indian satellites will be extended preferential treatment.***

***11.2 The Licensee shall ensure that its operation will conform to the provisions of inter-system co-ordination agreement between INSAT and the satellite being used by the Licensee.***

2.5.8 When DTH licensing guidelines were announced, satellite capacity for providing such services was readily available with ISRO/ Antrix on the INSAT series of satellites. Accordingly the DTH Agreement License conditions had a proviso that "preference will be given to Indian Satellites" even though the

DTH Licensees were not prohibited to go to foreign satellite operators for lease of capacity.

However in the implementation of the agreement, the DoS/ Antrix made it compulsory for acquiring capacity in the Ku band only via ISRO/ Antrix and not directly by contract with a foreign operator, even though such an operator would have been coordinated with respect of ITU coordination with ISRO.

2.5.9 Moreover the INSAT satellites had limited capacity and even though Dish TV was initially given capacity on INSAT 3A ( 4 transponders out of 6 available on the satellite), the same could support only 48 channels and in the very next year ( 2004) INSAT had to lease capacity from a foreign operator i.e. New Skies Satellite on the satellite NSS-6, whereby 10 transponders could be provided.

With New DTH licensees coming in, only one operator ( Tata Sky) could be given capacity on INSAT 4A while all other operators ( Reliance big TV, SUN, Videocon d2H and Airtel) had to be given capacity on foreign satellites. These satellites included Measat 3A, ST-2, NSS-8 etc. For expansion of capacities, once again , capacity had to be leased on foreign satellites such as Asiasat-5 in case of Dish TV even as late as 2010.

2.5.10 It is quite evident that in the absence of ready available INSAT capacity which would go waste if the DTH licensees were to take capacity on foreign satellites, there is no justification for Canalization of satellite capacities via ISRO/Antrix.

Lease of Capacities via ISRO /Antrix also have the limitation that the satellite leases are entered into for a period of 3 years with a proviso that if INSAT capacity is available the Licensee is bound to shift to such capacity. We consider this entirely impractical as an operator with 10 million dishes can not incur dish repointing charges to an INSAT satellite, which , as an example of Rs 300 per dish would cost Rs 3 Billion or Rs 300 crores to shift these dishes. This is clearly impractical and it is recommended that an **Open Skies Policy** should **be put in vogue as a part of the DTH License Agreement** which would allow any DTH operator to hire capacity directly on a satellite which is approved by ISRO and so notified.

2.5.11 Lease of capacity via Antrix/ ISRO over the past few years has also brought in many limitations which are hindering the growth of the industry:

(i) Being Government Organizations DoS and IRO are bound to

follow tendering procedures, elaborate technical and financial evaluation and price negotiations, negotiations of legal terms and conditions before a contract is entered into. This delays the processes by over a year. In the Indian DTH industry players have been waiting for as long as 2-4 years for allocation of even minimum capacities.

- (ii) Based on the internal criteria developed by them, Antrix is charging an overhead on satellite capacities of up to 10% whereas it was just 2% a few years back. This addition of 10% together with charges and levies on it makes the satellite capacity prohibitively expensive.

2.5.12 Currently the broadcasters who operate in C band are allowed to tie up for their satellite capacity themselves on ISRO coordinated satellites and in case the Ku band capacity is required on the same satellite then it has to be routed through ISRO. In order to facilitate the availability of bandwidth, the DTH operators be permitted to directly tie up with the foreign satellite providers. We accordingly suggest the following:

- (i) As in case of the C band teleport requirements, DTH operators and Ku band teleport operators be allowed to enter into Capacity agreements with the satellite providers directly. This will enable DTH operators and Ku band teleport operators to source the capacity and build their own business models and the DTH operators will be able to offer more channels to the consumers.
- (ii) DTH service providers will be able to build their own back up plans for protection of their investments and consumer interests.
- (iii) Once the satellite is coordinated by the Department of Space and the satellite is approved for use over the Indian Skies, then it should be allowed to be directly contracted by Ku band teleport operator and DTH operator.
- (iv) The direct contracts can incorporate conditions from the lease agreements of the Antrix so as to protect National interests. This would also protect Antrix from any financial liability in case of any default by the DTH service provider.
- (v) The arrangement will be more cost effective as the Operators will be able to sign for long term thus getting better rates.

- (vi) If the capacity is coming up at the orbital slot where one DTH operator is already operational then that particular DTH operator should be given preference as it will not be possible for the another DTH operator to be operational at that orbital slot due to location of the receiving antennas.
- (vii) It may be added that all satellite capacity contracted, either Directly by the operators ( presently in the C-Band) or via Antrix ( in the Ku-band) it still needs to be approved by the Wireless Planning Wing ( WPC). The DTH license agreement, has the following clause in regard to WPC:

*12.3 The Wireless Planning & Coordination (WPC) Wing of the Department of Telecommunication, Ministry of Communication shall issue SACFA clearance to the Licensee as soon as possible after receiving the application the same and shall grant the final Wireless Operational License, after signing of this agreement, subject to fulfillment of the necessary terms and conditions including installation of equipment etc. as may be required by WPC.*

In conclusion, we would like to bring to the notice of the Authority, the immediate need to review the present satellite capacity provisions incorporated in the DTH license agreement. These need to be amended to so as to allow DTH operators to directly lease the Satellite Capacity in the Ku-band as is the case in the C-band, subject to the satellite being coordinated with ISRO.

### **Spectrum Royalty Charges/NOCC Charges**

2.5.13 The DTH service providers are today being charged WPC Spectrum Royalty charges at the rate of INR 87500/MHz vide DOT letter No P-11014/34/2009-PP (III) dated 22<sup>nd</sup> March 2012 which translated to INR 31.50 lacs per Transponder of 36 MHz

Prior to this the spectrum royalty being charged from the Broadcaster under which the DTH is also categorized was INR 35000 /MHz which was INR 12.60 lacs per transponder and thus reflects an increase of 2.5 times

Apart from this DTH service providers are being charged NOCC charges of INR 21 lac per transponder of 36 MHz,

Thus for each transponder a DTH service provider is paying INR 52.5 lacs per Transponder of 36 MHz and DTH being a bulk user of the Transponder the total burden on already heavily taxed sector is high.

2.5.14 DTH operations involve uplink on multiple transponders of one or more satellites. These satellites have their own spectrum allotted by ITU and coordinated over the country. Being satellite capacity, it is used for uplink to space and does not restrict its use in terrestrial media due to separate bands and low power levels used in satellite downlinks.

Hence charging of WPC fees for foreign satellites is entirely without logic. We suggest that the DTH License fees be all encompassing and allow the use of satellite uplinks without payment of any additional charges to WPC as no terrestrial spectrum is involved.

### **Frequency bands**

2.5.15 The DTH License Agreement is silent on the frequency bands to be used however in the application form at 8.A.4. specifies the operating band as 10.95 – 11.2 GHz / 11.45 – 11.7 GHz (downlink): 12.2 – 12.5 GHz / 12.5 – 12.75

Over the last few years the ISRO/ Antrix have only allowed the use of the FSS band ( Fixed satellite Services band) for use of DTH Services. However in most other countries, DTH or DBS services are provided using the DBS band which is specifically designed for Direct Satellite Broadcast.

In India the DBS band remains unused even though there is a severe space crunch in the FSS band and DTH operators are struggling to get more capacity to be competitive with the Cable Delivery Mechanism and have a back up capacity to their current satellite.

**2.5.16 We recommend that the DTH license agreement, along with Open Skies ( Direct lease) provision should also permit the use of the DTH or DBS bands at the discretion of the Licensee provided that these bands are otherwise coordinated with ISRO at the ITU level.**

### **NOCC Charges**

2.5.17 When DTH licensees are taking capacity leases on the foreign satellites such as NSS-6 and Asiasat-5 ( Dish TV), ST-2( Videocon D2H), Measat 3A ( Big TV and SUN), NSS-11 ( Airtel), these satellites are controlled by their respective satellite control centers located overseas. All the transmissions by DTH operators are monitored, power levels maintained and specific performances ensured by these satellite control centers. The costs of performing these activities are bundled into the prices of the transponder which operators pay to the satellite provider.

2.5.18 Under these conditions, there is no justification in the Dept of Telecom levying a Network Operation and Coordination Centre (NOCC Charge), when in fact these functions are performed by foreign NOCCs and billed separately in transponder charges. These extra charges levied for no services rendered are indeed a great burden due to the large satellite capacity used. Even if viewed from the principle of reciprocity, when Indian companies use satellites from a foreign soil for up linking the channels , they do not need to pay such charges.

We therefore recommend that such charges should be levied only for the use of INSAT satellites where Network control functions are within the territory of India.

### **Use of Value Added Services**

2.5.19 The current License terms and conditions do not permit the use of any form of value added services such as two way connectivity via satellite, email, browsing etc. These stipulations have outlived their provision in the early 2000 when the policy was formulated. Most DTH systems today provide two way links which are helpful in providing quality connectivity in remote areas. It also allows a range of subscription based, on-demand, gaming, educational, financial and other services. There is no reason why Indian DTH operators should be denied such services when they are widespread overseas.

Accordingly we recommend that VAS services including two way connectivity, Mail, Browsing and Internet streaming should be permitted from DTH terminals using satellite uplinks and downlinks.

### **3. Summary of responses**

We would like to summarize our responses to the specific points raised in the consultation paper as well as additional recommendations to be incorporated in the License renewal Agreement.

- (i) **No Entry fees should be charged at the time of renewal of the Agreement.**
- (ii) **15 years should be the period of the DTH licenses to be issued to the existing DTH licensees on the expiry of the license period prescribed in their existing license. Further an appropriate amendment should be made in the DTH guidelines, prescribing a period of 15 years for the renewal of the DTH licenses on their expiry.**

- (iii) **Dish TV would like to suggest that keeping in view that all the DTH operators have been operational for considerable length of time, the need to continue with the Bank Guarantee should be dispensed with. Accordingly, there is no need to stipulate the provision of BG at the time of renewal of license/grant of new license in case of existing licensees.**
- (iv) **The License fees should be pegged at 6% of GR, and this should include all applicable WPC charges, NOCC charges which should not be applied in addition. Moreover the license to operate a DTH service nationally should be specifically recognized in a DTH license agreement and no other additional taxes such as entertainment Tax, VAT, Service Tax or levies should be charged.**
- (v) **The License Agreement should indicate that the Licensees can take DTH Ku band capacity directly from foreign satellite operators on any satellite which has been coordinated with the Dept of Space. The Capacity lease should be permitted in the FSS or BSS bands or in any planned band which has been coordinated with ISRO.**
- (vi) **VAS services including two way connectivity, Mail, Browsing and Internet streaming should be permitted from DTH terminals using satellite uplinks and downlinks.**