

Response of Reliance Big TV Ltd to the Supplementary Consultation Paper on 'Issues related to New DTH Licences'

This has reference to the Supplementary Consultation paper on Issues related to New DTH Licenses, which has been rolled out by TRAI seeking views of the stakeholders.

At the outset, we welcome the opportunity to comment on issues concerning New DTH Licenses. We also like to thank the Authority to consider the suggestions/comments given by the Industry in the meeting held at TRAI to discuss the issues related to the DTH licenses. Below are the question wise comments of Reliance BIG TV Limited. We believe that TRAI would consider the same before coming up with a final view.

RCOM Comments on Issues for Consultation

1. Stakeholders are requested to give their views on the modification of clauses 1.4 and 1.5 of the DTH Guidelines, as mentioned in para 1.15, prescribing cross-holding/control restrictions. Stakeholders are welcome to suggest other options, if any, with justifications.

Stakeholders are also requested to give their views on the timeframe to be given to the existing DTH licencees to comply with the new provisions and the justification thereof.

In light of today's great diversity of media, no legitimate public interest would be served by imposing any stringent cross ownership restrictions in DTH sector. To the contrary, it is felt, the guidelines would prevent entities from realizing the efficiencies of cross-ownership. The Indian DTH and broadcasting sectors offers abundant choice availability. Thus, stringent Cross Ownership restrictions at this stage are unnecessary as well as counterproductive.

The policy goal in competitive market will be automatically satisfied as a matter of course through the operation of market forces and competition laws. The Authority has already notified regulations to check the anti-competitive behaviour and abuse of dominance.

The present DTH licensee and other media houses have made huge capital expenditure and investment in their respective business to give best of the technology to the customers at a competitive rate. Hence, we would like to submit that the existing guideline regarding cross holding requirement shall continue. As per the present policy, restriction relating to crossholding needs to be retained at first level.

We further like to submit that if the revised guidelines needs to be implemented, then it should be made applicable to new licensees hence forth and not to existing licensees. The existing DTH licenses shall be given exemption from complying with the revised guidelines as the Government has given similar exemption in the case of telecom license.

In place of restriction on crossholding, Government can control the dominance on the basis of market share in various segments of Media and put the restriction on particular Group.

In view of the above, we request that the Authority should not change the existing guidelines for cross holding restrictions.

2. Do you agree with the approach discussed in para 1.25, on the aspect of technical compatibility and effective interoperability of STBs among different DTH service providers? If not, an alternative approach may be suggested with justification.

The issue of technical interoperability should be brought into perspective, beyond just as a means of providing customer an exit option from incumbent service provider, to adding an otherwise muted open market of retail STB, and broader adoption of technological innovation in the country.

Reliance Big TV, as a service provider is not in the business of supplying STB. Today, we are forced to supply the STB, which is only a via-media terminal to deliver our products, i.e. pay-TV content and VAS. We would desist ourselves from supplying STB for basic pay-TV services if there were sufficiently capable, secured and open standardized terminals in the market.

The aim of technical interoperability should be to promote more open STB in the retail market, such that the customers have a wider choice and customers may continue to get support beyond warranty period. Such products could claim to receive DTH/Cable content and label its basic and additional capabilities so that customers have a choice of selecting the right one which can work across operators for the basic services and allow standard platforms to be built to provide VAS.

Multiple technical factors affect the choice of software & hardware design of the box provided by any DTH platform. The can be classified as follows:

- i. Security and Anti-piracy obligations towards Broadcasters and content owners
 - Conditional Access System (CAS)
 - Other operational features to enforce version upgrades and other required countermeasures to combat piracy and thwart any hacking attempts.
 - Middleware capability to assist identification & blacklisting of rogue user

- ii. Transmission efficiency V/s cost of transmission & Cost of box
 - DVB-S / DVB-S2
 - MPEG-2 / MPEG-4 / HEVC etc etc.
 - Symbol rates supported
 - Antenna sizes and LNB (e.g. Multi satellite support)
- iii. User experience and enhanced user support
 - EPG formats & layouts
 - Availability of video of tuned service while browsing guide / schedule
 - Customer remote support tools available in the box
 - Multiple audio stream languages / EPG languages & scripts
- iv. Value added services
 - Graphics capability & fonts available on board
 - Games & other interactive services
 - Video on demand
 - Media gateway
 - Internet access / Browser / other internet enabled services
 - Satellite enabled one way / two way access to internet bandwidth

It is not possible to field upgrade or even construct any box to support all the above factors in a single box without

- v. Compromising the security needed to fulfill obligation to the content owner. DVB-CI standard mandated in BIS specification is obsolete, as it does not provide protection to content like host authentication, force fingerprint and has an open interface for transferring decrypted content. Even with integrated designs for Conditional Access, content security is being constantly attacked by the hackers / pirates.
- vi. Reducing the features in the STB to common minimum, while pushing the technology to common maximum. Specs for the host device terminal (connected to CAM) for interoperability talks only about the hardware interfaces and not software capabilities. Hence, the notion of 'open architecture' does not exist. Interoperability should ideally work across different levels of software, if the same experience has to be made available for the consumer when he/she switches from one operator to another. Services like EPG, Customer information, Messaging, VAS services are host device specific and there is no interoperability standard to define them.
- vii. Hence losing the enhanced user experience / remote customer support etc
- viii. Increasing cost of the device disproportionately.

If it was possible to fulfill all the above factors without compromising any obligations, using any third party box, no DTH operator would have ever invested in construction, selling and installation of their own boxes. This is because no operator is making money by selling boxes, neither is the selling of boxes their core business. In fact, large part of their loss/risk is due to the fact that the Operator has to subsidize the STB to be able to acquire the customer in the environment of hyper competition between various forms of TV distribution options available to the consumers.

Mandating a specification for hardware and software on the host device terminal inhibits adoption or promotion of technological innovation in the country. It has to be noted that BIS specifications lag in terms of technological innovation as it is intended towards standardization.

Higher end devices or services may include software features that are proprietary to the operator or product manufacturer. E.g. multi-screen, VoD, 3D, UHD, Wifi, DDP, DTS etc, apart from or may complement certain BIS spec in terms of capabilities. Mandating a specific interface for a spec may just add a dead piece of hardware at a higher cost. Hence, BIS specification for higher end devices is not a practical solution to interoperability. Indeed, customer should be aware that the device does not conform to the standard.

Hence, while it is appreciated that consumers would need an exit option, mandating technical interoperability through specification should be limited to open market retail products that have the compliance label.

Adding a CAM module to the host device terminal adds to power consumption

Also since there is a cost to the CAM module, the customer will have to bear almost the same cost for migration using a CAM module as it would have to by licensing a new box from the other operator.

Finally, from the consumer's viewpoint, he is choosing the operator for reasons like

- Availability of his choice of TV/Radio/Other services on the platform
- Quality of viewing experience and effective support for continued viewing
- Cost v/s benefit perceived by him
- Other value added services that he may desire and wish to use.

In the light of above, each DTH operator has constructed several types of boxes to fulfill the desires and aspirations of the end user while maintaining consistent quality of service and viewing experience and competitive pricing. We feel that enforcing technical interoperability for DTH STB is detrimental both to the consumers and to the industry. As on one hand it will hamper the optimization of the cost of the box and hence the cost of the service to the end consumer. On the other hand it will only serve to push the technology instead of appropriate acceptance of the innovation when the user is ready for the upgrade and willing to pay fair / competitive price for the same.

In view of the above submission, we request the Authority to exclude supply of interoperable STBs from the ambit of DTH licensing.

Additionally, we would like to suggest that the product manufacturers 'may' be allowed to carry a logo for interoperability at different levels including CAS interoperability, network interoperability etc. Government should arrange/appoint interoperability testing labs, similar to Cablelabs (USA) or Digital TV lab (Europe), for conformance tests, against reference CAMs. Manufacturers could label their products with the compliance test certificates along with any additional capabilities. This will promote open market product as an industry, where consumers have choice during purchase.

3. Do you agree that, in line with the Unified Licence, the licence fee for DTH services should be charged at the rate of 8% of the AGR where AGR be calculated by excluding Service Tax and Sales Tax actually paid to the Government, if Gross Revenue had included components of Sales Tax and Service Tax? If not, an alternative formulation may be suggested along with justifications.

We welcome the Authority's proposal that the payment of license fee for DTH services should be in line with the Unified license and should be charged at the rate of 8% of the AGR.

In this regard, we would like to submit following:

(A). The Authority in its earlier recommendation stated that:

The AGR in case of DTH service should mean total revenue as reflected in the audited accounts from the operation of DTH, as reduced by

- i. subscription fee charges passed on to the pay channel broadcasters;
- ii. sale of hardware including integrated receiver decoder required for connectivity at the consumer premise;
- iii. service/entertainment tax actually paid to the central/state government, if gross revenue had included them,

(B). The Hon'ble TDSAT in its judgment dated 28.05.2010 stated that:

"It, therefore, is evident that at no point of time, the recommendations of TRAI were rejected."

(C). Further, while allowing the petitions in the aforesaid judgment, TDSAT had stated as follows:

“The installation charges, in view of the judgment of this Tribunal would also not form part of the revenue as the same are passed to the other parties responsible for installation.

The test which is to be applied is as to whether the DTH operators remain the payments received from the customers for those services or passed on to some other party.

If the DTH operator cannot retain that part of the AGR, which it is not obliged to include while computing AGR.

So far as the taxes which have been actually paid is concerned, TRAI in its recommendations has clearly stated that taxes whether paid to the Central or the State Government shall be excluded from the purview of AGR of the licence. This point is concluded by the judgement of the Tribunal and recommendations of TRAI dated 1.10.2004.”

In view of the above facts that the Authority in its recommendations and the Hon’ble TDSAT in its various judgments advocated the Authority’s recommendations that the AGR should be reduced by:

- i. subscription fee charges passed on to the pay channel broadcasters;**
- ii. sale of hardware including integrated receiver decoder required for connectivity at the consumer premise;**
- iii. service/entertainment tax actually paid to the central/state government, if gross revenue had included them**

We request the Authority to incorporate the same while prescribing the licensing fee in the new DTH license conditions.

4. Do you agree with the approach discussed in para 1.39, for arriving at the quantum of migration fee to be charged from the existing DTH licencees on their migration to the new DTH licencing regime? If not, an alternate formulation may be suggested along with justifications.

5. Do you agree with approach regarding migration of existing DTH licencees to a new licensing regime, discussed in para 1.41?

If yes, how much time, after notification of the new DTH licensing regime, should be given to the existing DTH operators for migration to new DTH licencing regime?

If not, what should be the approach followed for migration of existing DTH operators to a new licensing regime?

Please elaborate your response with justifications.

We would like to submit that there should not be any 'Entry Fee' for the existing DTH licensees if they opted to migrate from the existing licensing regime to the new regime. Though, a minimal processing fee/migration fee can be charged for the same.

Entry fee is normally levied to deter the non-serious players from entering the sector and to ensure that only serious players apply for a license and setup & operationalise the business within the stipulated time period.

DTH operators have invested significant amount in setting up the business and it being a digital platform has introduced much needed transparency in the sector viz. the license fee revenue payments, broadcaster payments, etc.

Thus, in view of the above, we request the Authority to not to charge any entry fee for the existing operators who opted to migrate from the existing license regime to the new regime and do not impose any extra burden on the service providers who have been operating for a considerable length time.

However, if the Authority proposes the formula as prescribed in Para 1.39 of the consultation paper, we are in agreement with the proposal.

We further like to submit that, it should be the discretion of the existing DTH operator whether he would like to migrate from the existing DTH license to the new DTH license or not, and when he would like to do so depending upon their business requirement and operational feasibility. In the telecom license regimes, the operators have the choice to remain into their existing regime till the time they would like to do so and once they opt for the migration they follow the process as prescribed by the licensor.

In view of the above, we request the Authority to not to make it compulsory for the existing DTH operators to migrate into new DTH license regime. The existing operators should have the choice to either migrate to new licensing regime or to remain into the existing one.