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RP/FY 22-23/075/98

June 7, 2022

To,

**Mr. Anil Kumar Bharadwaj**

**Advisor(B&CS)-II**

**Telecom Regulatory Authority of India,**

Mahanagar Doorsanchar Bhawan,

Jawahar Lal Nehru Marg,

Old Minto Road,

New Delhi-110002

**Sub: Response to TRAI Consultation Paper on "Issues relating to Media Ownership"**

**Ref: TRAI Consultation Paper dated April 12, 2022.**

Dear Sir,

In reference to the captioned consultation paper, we are pleased to enclose our response for your perusal.

We hope that our submissions will merit your kind consideration.

Thanking You

Yours Sincerely

**For Bharti Telemedia Limited**

A handwritten signature in black ink, appearing to read 'Rahul Vatts', written over a circular blue stamp.



**Rahul Vatts**

**Chief Regulatory Officer &**

**Authorized Signatory**

**Encl: As mentioned above.**

**Copy to:**

- i. **Secretary, TRAI**
- ii. **Principal Advisor(B&CS), TRAI**

## ***Response to TRAI's Consultation Paper on 'Issues Relating to Media Ownership'***

### **PREAMBLE**

We would like to thank the Telecom Regulatory Authority of India (TRAI) for giving us an opportunity to submit comments on the consultation paper on 'Issues Relating to Media Ownership' for Broadcasting and Cable Services ("B&C services"), released on April 10, 2022.

The Broadcasting sector plays a vital role in the development of a society by acting as the medium of information and knowledge transfer, stimulate economic growth and bring cohesiveness among citizens / socio-economy.

**Considering the importance of Broadcasting, India created an enabling regulatory framework that ensured that all broadcasting content is available to customers without discrimination through every Distribution Platform Operator (DPO) i.e. DTH, multi-system operator, IPTV and HITS operators following principles of transparency, non-discrimination, and non-exclusivity.**

### **A. Changes in Broadcasting Market Landscape impacting Consumer Behavior:**

- **It needs to be acknowledged that a fundamental shift has happened in the broadcasting landscape as well, driven by emergence of OTTs due to convergence of broadband technologies and distribution platforms.**
- These digital technologies have evolved at a breakneck speed leading to a situation where traditional lines between broadcasting, cable TV, DTH and OTTs are fast disappearing, with latter altering the entire content delivery linked viewership experience and broadcasting sphere.
- In-fact as per some estimates<sup>1</sup>, it is expected that by 2025, the total screen count will reach about a billion with ~250 million television screens and over 750 million smartphone screens. This has triggered massive growth in live TV broadcast through mobile apps/OTTs, which are now becoming primary source for consuming media and the **"smartphones are the now new TVs"**.
- These OTT platforms are increasingly competing with traditional broadcast platforms like DTH, IPTV, and Cable – and, with growing adoption of high-speed broadband networks, the consumers are demanding the same content experience (OTT + Linear) across all screens – smartphone, TV and PC and looking for bundled services (both data/broadband and cable/DTH services under one offer) to fulfil their needs.
- **Several different technologies are delivering same customer experience i.e.** From terrestrial broadcasting and analogue cable to DTH services and now online platforms, the carriage platform of broadcasting content has come a long way with wireless and traditional

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<sup>1</sup> <https://ficci.in/spdocument/23200/FICCI-EY-Report-media-and-entertainment-2020.pdf>

***Response to TRAI's Consultation Paper on 'Issues Relating to Media Ownership'***

broadcasting platforms. Collision of all these carriage platforms offering similar content/linear channels will only deepen further.

- **Content consumption is similar across all devices** due to availability of high-speed broadband services, Broadband capable Cable TV, coupled with the launch of various OTT platforms. It has nullified the previous dependency on specific devices for watching specific content. Today, linear programming, live broadcasting and global and local OTT content are being consumed across screens (e.g., smartphone, PC, Smart TVs).
- **This fundamental shift driven by OTTs giving content broadcast is making the primary medium of watching content, shift from TV screen to a Smartphone that can be watched anytime, anywhere.**

**B. Impact of Unregulated OTTs resulting in non-level playing field qua regulated broadcasting:**

- Leveraging this, the broadcasters have created their own OTT apps/websites to offer their own linear content over that of the Telcos broadband networks, and/or through other mediums. This is driving substantial change in audience/ viewers' i.e. consumers' behaviors leading to people switching and using one technology over another e.g. OTTs over DTH.
- **This competition aspect has not been factored into the broadcast regulations by TRAI yet e.g. although several different mediums (e.g. OTTs, DTH, IPTV, Cable) are providing exactly the same content & customer experience, different approaches to pricing of the same content i.e. regulated and unregulated, both (provided under the Ministry (via TV industry) as mandated by TRAI vis. a vis. the provided through an app/OTT) – has created market distortions.**
- Therefore, to cope up with the competitive constraints from unregulated platforms like OTTs, there is a **pressing need to bring 'regulatory parity' among all platform operators.** From the point of view of communications and broadcast infrastructure and related services, convergence makes the traditional separation of regulatory functions between these segments increasingly inappropriate and calls for a coherent regulatory regime.
- In-fact the **NDGP 2018 recognized the importance of convergence in the telecom and broadcasting services and has enabled the infrastructure convergence of IT, telecom and broadcasting, establishing a unified policy framework for broadcast and broadband technologies and restructuring legal, licensing and regulatory frameworks so as to reap the benefits of convergence.**

## *Response to TRAI's Consultation Paper on 'Issues Relating to Media Ownership'*

### **C. Critical to ensure that Rule of 'Must Provide' is applicable to All:**

- Presently, the Broadcasters provide the live TV content to DTH/MSO/Cable TV operators in a non-discriminatory manner under the Interconnect regulation (RIO) in place for broadcasting sector. This non-discriminatory access through the 'Must Provide' of live TV content to various platforms has led to explosion in the number of digital media consumers across the DPOs.
- However, despite OTTs now fast becoming the primary source for consuming media and the "smartphones are the new TVs" and offering live TV –are still not governed under TRAI's Interconnect Regulation.
- This is a clear lacuna that has created a situation of regulatory discrimination. The Interconnect Regulation since prescribing '**Must Provide**' regime was never intended to create any discrimination on the basis of technology.
- While MIB and TRAI regulate the existing DPOs (DTH, IPTV, MSOs and HITS) no such regulatory framework exists for digital media distribution platforms, which carry the same content. This anomaly leads to the risk of unequal access of same broadcasting content and may impact media plurality by reducing the number of perspectives, and restricting customer choice who may not be able to access same broadcast content on choice of delivery platform.
- This **skewed policy regime** is impacting competitive landscape and opening risks such as exclusionary and discriminatory impact on broadband subscribers who may not be able to access same broadcast content on choice of delivery platform. This goes against the basic tenet of *Must Provide* framework, which promotes the consumer interest, by providing real and effective choice to the consumer irrespective of delivery medium.
- A situation can be anticipated, if a vertically integrated player secures an exclusive deal for such broadcast content and bundles it for its own subscribers – the rest of the subscriber universe will straightaway get excluded from having opportunity to access such content on other distribution platforms. To avoid such exclusionary behavior, there should be a mandate to follow "*Must provide*" and that the said rule must be extended to OTTs/digital media.

### **D. Equal Access of Content to all carriage providers:**

- Typically, if the cross ownership is allowed between carriage and content, then content providers must give equal access to all including competing carriage providers based on a mandated TRAI tariffs on a non-discriminatory basis.



***Response to TRAI's Consultation Paper on 'Issues Relating to Media Ownership'***

- The fundamental principle and objective behind any regulatory framework is to create a non-discriminatory, level playing field based competitive environment where all the players have equal opportunity to compete and grow, thereby resulting in the sector's overall growth, while duly incorporating the advancements and convergence in technology and market.

**Conclusion:**

Therefore, in view of the converging broadcast mediums forcing change in consumption patterns increasingly driven by OTTs fast becoming an alternate viewership medium to traditional platforms, the TRAI must examine the regulatory landscape in a holistic manner, and we recommend that the following changes are brought about:

- i. **Ensure regulatory parity by bringing OTTs under the same broadcast framework**
- ii. **Bring providing live TV/same content over OTTs under the ambit of 'Must-Carry and Must-Provide'**
- iii. **The Broadcaster must give the content broadcast to all digital platforms under 'Must Provide'**
- iv. **If cross ownership is allowed between carriage and content, then content providers must give equal access to all including competing carriage providers based on TRAI mandated tariffs on a non-discriminatory basis.**

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