



Dated: 21<sup>st</sup> Dec 2020

To,

Advisor (B&CS) -II  
Telecom Regulatory Authority of India (TRAI)  
Mahanagar Door Sanchar Bhawan,  
J.L. Nehru Marg, (Old Minto Road)  
New Delhi - 110002, India

**Subject:** DEN Networks Limited response to TRAI Consultation Paper on "Consultation Paper on Ministry of Information and Broadcasting (MIB) back reference on TRAI's Recommendations dated 19.11.2014 on "Regulatory Framework for Platform Services" and MIB reference on TRAI's Recommendations on "Platform Services offered by DTH Operators" dated 13.11.2019"

Dear Sir,

This is with reference to the aforementioned consultation paper issued by TRAI with reference to refer back from MIB.

In this regard, kindly find attached the question wise response/comments from DEN Networks Limited.

We hope that our comments will merit your kind consideration for drafting and releasing of recommendation in this regard.

Thanking You

Yours Faithfully

For, DEN Networks Limited

  
Authorized Signatory



## PRELIMINARY SUBMISSIONS ON THE CONSULTATION PAPER

We are thankful to the Authority for various steps taken by it but at the same time we are also surprised to find that the Authority has issued the present Consultation Paper for further regulating programming services offered by MSO(s)/LCO(s), which are already being adequately regulated under a robust regulatory framework i. e. Cable Television Networks Act, 1995 ("CTN Act") and the Cable TV Networks Rules, 1994 ("CTN Rules"). The Authority will acknowledge that the cable industry is a heavily regulated sector with mandates and restrictions placed on all its facets including carriage fee, network capacity fee, subscription fee, distribution fee *et cetera* and that any further intervention will only cause severe impairment of the cable industry. The Authority may kindly note that there is constant fall in Cable Sector subscriber base as well as decline in number of active DPOs due to excessive regulations of the Sector and the sector is becoming unviable and this over regulation will ultimately kill the Cable TV industry as a whole.

It is also very pertinent for Regulator to consider the need of making the law or regulating certain commercial/industrial practices, when any practices are being either misused or being used to affect the society or any part there of adversely. In view of this it is evident that the cable industry already is highly and strictly regulated and there are adequate laws to regulate the industry so that no practice can either be abused, misused or affecting adversely to any part of society

The Authority has also failed to even mention or consider that the platform services being offered by MSO(s)/LCO(s) have always been an integral part of their cable services and have accordingly been adequately defined in the CTN Act, where "Cable Services" has been defined as "the transmission by cables of programmes including re-transmission by cables of any broadcast television signals". Since, the platform services offered by MSO(s)/LCO(s) have been appropriately regulated (by Programming and Advertisement Codes) with requisite checks and balances in place, hence placing any further restrictions and constraining the DPO(s) with respect to these services, could prove injurious for the cable TV industry as customers would be driven away to competing platforms including OTT platforms which is completely unregulated.

### **DEN Networks Limited**

CIN: L92490MH2007PLC344765

**Corp. Office:** 236, Okhla Industrial Estate, Phase-III, New Delhi - 110 020

Landline: +91 11 40522200 || Facsimile: +91 11 40522203 || E-mail: den@denonline.in || www.dennetworks.com

**Regd. Office:** Unit No.116, First Floor, C Wing Bldg. No.2, Kailas Industrial Complex L.B.S Marg Park Site  
Vikhroli(W), Mumbai, Mumbai City, Maharashtra, India, 400079

Landline: +91 22 20870451 || E-mail: den@denonline.in || www.dennetworks.com





In the present Consultation Paper, the Authority has made an errant observation that "Given that a very large number of platform channels are possible, the issue of oversight on information spread through such channels is important" and that "Platform Channels can quickly and widely spread information/misinformation". It is surprising that the Authority has shown concern regarding the probability of spread of misinformation on a platform channel which is abundantly regulated, and has enough provisions that may be utilised by the Authority for keeping a check on the content available on such platform. On the other hand, it is disappointing to note that Authority has still left OTT platforms out of the scope of any form of regulations and thereby creating disparity among the platforms, despite numerous requests made by several stakeholders. It is really lack on the part of Authority for not regulating OTT whereby the obscene content is being transmitted without any such limitation and affecting the society and our culture adversely.

It is on record that the platform services are strictly regulated and are already bound by the Advertising Code and the Programming Code under the CTN Act and the CTN Rules, on the other hand it is pertinent to note that the OTT platforms are not governed by any specific programming or advertising code or any other laws and hence, obscene content, uncensored content, pornographic content, content detrimental to the national security are frequently getting transmitted through such OTT platforms.

While the initial recommendations were made in 2014, the last 6 years have seen explosion of social media companies and fake information on social media and there is no such misinformation reported from the Platform channels and it is humbly requested to review the recommendations made in 2014 and 2019 in this regard as both MIB and TRAI have enough controls already in place over DPOs and they are actively monitoring any misuse. The Authority should not do micro management of the business of DPOs.

As per media reports, there are approximately 800 million monthly average users and out of which approximately 70 million paid OTT subscribers and the number is growing fast day by day. The main reason for the exponential growth in OTT users and paid subscribers is due to no parity instilled by the government; the traditional broadcast and cable TV business is increasingly becoming unviable. As per the report published by Business Today on August 09,





2019, the cable universe has seen a Wipeout of over 15% in the last few years. A large part of dip in the viewership has happened in the urban markets due to factors such as easy access to data and advent of OTT platforms. The report also states that a couple of years ago most broadcasters spent huge amounts of money promoting their TV shows, but today most of them are spending crores on promoting their original shows that are being streamed on OTT platforms.<sup>1</sup> From the fact that these broadcasters want to release the programs on their OTT platform a few hours / days before telecasting shows the intent of the broadcasters in making the Cable TV networks irrelevant.

Furthermore, the Authority is aware that these unregistered and unregulated OTT platforms (*several of them being operated by the Broadcasters directly as well as through their sister concerns*) are also providing Satellite channels as catch-up content/live tv to the subscribers. It is important to note that the Broadcasters, who have obtained the permission from the MIB, to uplink/downlink channels to DPO(s) only as per the Downlinking Guidelines, have unlawfully been using the OTT platforms to make their content/channel available either free of cost or at much lower rates as compared to the regulated DPO(s). Through these OTT platforms, the broadcasters are indulging in and openly flouting terms and conditions under the MIB's licensing regime and TRAI regulatory regime. Therefore, Authority needs to take this commercial imbalance faced by the regulated DPO(s) into consideration as against the OTT platforms who are being allowed to reap huge and unjustified benefits, due to absence of any form of regulatory framework governing them. It is important to treat OTT platforms as IPTV platforms and ensure that there is level playing field between conventional Distribution platforms like DAS/ DTH/HITS with IPTV and OTT. The Authority may kindly investigate how several mobile service providers are getting the content from broadcasters at fixed fee or low price which is bundled with their broadband plans while DPOs are regulated in terms of pricing in terms of MRP and DRP of bouquets and ala carte prices.

At this stage it is very important and also to be placed on records that even the Govt of India (Ministry of Information & Broadcasting) has acknowledged that the Cable TV has been adequately regulated while OTT is not being regulated leading to flouting the applicable

<sup>1</sup><https://www.businessstoday.in/technology/news/are-netflix-hotstar-zee5-other-ott-platforms-causing-decline-television-viewership/story/371079.html>





statutes. MIBI also filed an affidavit in this respect before Hon'ble Supreme court in Sudarshan TV case and stated that at this juncture OTT is required to be regulated at the earliest while Cable TV is duly regulated.

### COMMENTS/SUGGESTIONS ON THE CONSULTATION PAPER

As stated hereinabove, platform services offered by MSO(s)/LCO(s) are adequately regulated under the CTN Act and the CTN Rules and therefore require no further regulations/intervention by the MIB/Authority and which has also been acknowledged by MIB. Be that as it may, we have herein below provided our comments on each of the recommendations point wise:

1. Para 2.39 of the TRAI's Recommendations dated 19.11.2014 -

Authority's Recommendation - "In view of above, TRAI has no objection to accept Ministry's view provided that Ministry of Information and Broadcasting is able to specify compliance structure to ensure that those providing platform services make full disclosure on ownership status and comply to content code and advertisement code while providing platform services."

DEN's Response - We agree with the Authority's recommendation that those providing platform services should make full disclosure on the ownership status and comply with the content code and advertisement code while providing platform services. The Authority and MIB is fully aware that the programming services offered by MSOs are already covered adequately under the CTN Act, 1995 and are therefore already mandated to comply to Content Code and Advertisement Code while providing programming services. While if there is violation of compliance by these codes or part of the Act/Rules, the Authorized Officer, who has reason to believe that the provisions of section 3, 4A, 5, 6, 8, 9 and 10 have been or are being contravened by any cable operator, he may under section 11 of the Act, seize the equipment being used by such cable operator for operating the cable television network.







For registration of Cable Operator Rule 5A (C) of the Cable Television Network Rules, 1994 clearly stipulate that: -

*"5A (c) such person shall not carry programming service provided on the channel generated at the level of such cable operator which is in violation of Programme code specified under rule 6 and the Advertising code specified in rule 7."*

Similarly, for registration as MSO Rule 11D (d) of the Cable Television Network Rules, 1994 clearly stipulate that: -

*"(d) such person shall not carry programming service provided on the channel generated at the level of such Multi-System operator which is in violation of the Programme Code specified in rule 6 and the Advertising Code specified in rule 7."*

**"11. Power to seize equipment used for operating cable television network –** If any authorised officer has reason to believe that the provisions of section 3, section 4A, section 5, section 6, section 8, section 9 or section 10 have been or are being contravened by any cable operator, he may seize the equipment being used by such cable operator for operating the cable television network:

*Provided that the seizure of equipment in case of contravention of sections 5 and 6 shall be limited to the programming service provided on the channel generated at the level of the cable operator."*

The aforementioned clauses sufficiently cover the concerns of the Authority as well as the MIB with respect to transparency of programming services being transmitted on their platform.

2. Para 2.45 of the TRAI's Recommendations dated 19.11.2014 -

Authority's Recommendation - The Authority has reiterated its earlier recommendations which are as follows:

**DEN Networks Limited**

CIN: L92490MH2007PLC344765

**Corp. Office:** 236, Okhla Industrial Estate, Phase-III, New Delhi - 110 020

Landline: +91 11 40522200 || Facsimile: +91 11 40522203 || E-mail: den@denonline.in || www.dennetworks.com

**Regd. Office:** Unit No.116, First Floor, C Wing Bldg. No.2, Kailas Industrial Complex L.B.S Marg Park Site Vikhroli(W), Mumbai, Mumbai City, Maharashtra, India, 400079

Landline: +91 22 20870451 || E-mail: den@denonline.in || www.dennetworks.com





“The Authority recommends that a maximum number of 5 PS channels could be offered by the cable operators in non-DAS areas. In DAS areas and for all other platforms, a maximum of 15 PS channels could be offered by the DPOs. These numbers are the number of PS channels to be made available at the subscribers’ end.”

**DEN’s Response** - In this regard, we state that we are in agreement with MIB’s view that it is not in the interest of the evolving and dynamic market like cable TV to restrict the number of PS channels and that regulation may only intervene to the point of upholding consumer interests, ethical business practices, ease of doing business and safeguard against violation of programming and advertisement code. The Authority on the other hand has noted that the ability to provide a large number of PS channels will present an arbitrage opportunity for the DPO(s) as they may circumvent the regulations on broadcasting. However, the Authority has failed to recognize that platform services being offered by MSO(s) or LCO(s) are already within a robust regulatory framework of the CTN Act and the CTN Rules, which sufficiently addresses the aforesaid concerns raised by the MIB. Any further interventions would only impede and hinder the business of MSO(s) or LCO(s).

Further, with regard to offering of platform services by DTH operators, we reiterate that the platform services being offered by the DTH operators are satellite based and therefore, the provisions as applicable to satellite-based channels should be applicable to such platform services in entirety. This suggestion had been made considering the fact that just as the broadcasters providing registered TV channels, the DTH operators also utilize the satellite spectrum (*which is a public property*), for offering their platform services and retransmission of registered satellite channels, unlike cable TV operators who invest in their own infrastructure for providing programming services as well as retransmission of satellite channels and are not dependent on any form of spectrum.

Moreover, in terms of the DTH Guidelines issued by the MIB, the DTH operators are prohibited from offering any platform services. The relevant clause of the DTH Guidelines is reproduced herein below for your kind reference:



## DEN Networks Limited

CIN: L92490MH2007PLC344765

**Corp. Office:** 236, Okhla Industrial Estate, Phase-III, New Delhi - 110 020

Landline: +91 11 40522200 || Facsimile: +91 11 40522203 || E-mail: den@denonline.in || www.dennetworks.com

**Regd. Office:** Unit No.116, First Floor, C Wing Bldg. No.2, Kailas Industrial Complex L.B.S Marg Park Site  
Vikhroli(W), Mumbai, Mumbai City, Maharashtra, India, 400079

Landline: +91 22 20870451 || E-mail: den@denonline.in || www.dennetworks.com



Clause 6.7 – “No licensee shall carry or include in his DTH Service any television broadcast or channel which has not been registered by the Central Government for being viewed within the territory of India.”

*Provided that the licensee may continue to carry or include in his DTH Service any television broadcast or channel, which has made an application for registration to the Central Government on or before the date of issue of this Order, for a period of six months from the date of such Order or till such registration has been granted or refused, whichever is earlier.*

*Provided further that TV Channels uplinking from India, in accordance with permission for uplinking granted before 2<sup>nd</sup> December 2005, shall be treated as “registered” Television channels and can be carried or included in the DTH Service. (Added by Order No. 8/3/2004-BP&L dated 11th May 2006).”*

*Even though the DTH operators have not been permitted from providing any platform services, they continue to provide paid platform services as high as 42 platform services, resulting in huge losses to the ex-chequer on account of non-payment of any fee for such platform services which is otherwise required to be paid by any registered satellite channel owner. For instance, a DTH operator providing 42 platform services utilising the spectrum, which was otherwise not permitted, has resulted in a loss of Rs 294 lacs per year to the ex-chequer, calculated as 42 platform services x Rupees 7 lacs.*

Accordingly, the DTH operators and MSO(s), being inherently distinct, should not and cannot be brought within the same regulatory framework with respect to platform services.

Furthermore, we would like to draw the kind attention of the Authority that just as the platform services are covered under the CTN Act, the Satellite channels are also governed by the same regime. Hence, we state that there should not be any limit on the number of platform services when there are no such restrictions imposed on the Satellite channels.







Moreover, the Authority needs to take into consideration the fact that 'cable channels' originated much prior to the launch of Satellite channels and the origin and purpose of 'cable channels' should not be ignored. It is pertinent to note that the programme services being offered by MSO(s)/LCO(s) are only available on a regional level to their own subscribers. In fact, the Authority has itself acknowledged that the impact of platform channel may be more as they are more local and may be more relevant for the public in a particular area.

The consumers need to benefit with more content having a local element, which can otherwise not be made available to them by DTH operators as they provide services on a PAN India basis and cannot cater to the need/requirement of the regional consumers. The consumers have a right to demand the content of their choice and the MSO(s)/LCO(s) are obliged to supply such content as long as the same is in conformity with the Programming Code and Advertising Code envisaged under the CTN Act and the CTN Rules. Therefore, we strongly believe that the number of platform services offered by the MSO(s)/LCO(s) should be decided by the market forces & the economic sustainability should ultimately determine whether to restrict or expand this number.

In the current pandemic situation, where social distancing has become mandatory as per government directions and subscribers are not encouraged to participate in the local events including religious programs, the local channels (PS channels) serve the purpose of delivering the content. As each MSO has thousands of LCOs and many LCOs demand their PS channel to be carried, there should not be any restrictions on the number of PS channels.

Also, the authority should note that by proposing to restrict no. of Platform services by inclusion of the local channels being inserted by LCO's in MSO headend, it is restricting the LCO to provide local services to its subscribers which has been the major difference between the Cable Television's platform and other delivery platform. This would unleash another wave of discontent among LCO's, which may not be good for healthy growth of the Cable sector, which has already seen massive agitation by LCO community. Hence it is important that looking at the very nature of difference between an MSO and DTH, the concept of "One Size Fits All" shall not be pushed for regulating



Page 8 of 16

## DEN Networks Limited

CIN: L92490MH2007PLC344765

**Corp. Office:** 236, Okhla Industrial Estate, Phase-III, New Delhi - 110 020

Landline: +91 11 40522200 || Facsimile: +91 11 40522203 || E-mail: den@denonline.in || www.dennetworks.com

**Regd. Office:** Unit No.116, First Floor, C Wing Bldg. No.2, Kailas Industrial Complex L.B.S Marg Park Site  
Vikhroli(W), Mumbai, Mumbai City, Maharashtra, India, 400079

Landline: +91 22 20870451 || E-mail: den@denonline.in || www.dennetworks.com



the industry. Therefore, it is requested that there should not be any restriction on number of Platform Services being provided by MSO's.

Attention of the authority is also drawn to insertion in Regulation 4 of the new proviso, after the proviso and before the Explanation to sub-regulation (3) through the telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) (Second Amendment) Regulations, 2020 (1 of 2020), which provides as under:

*"Provided further that for a multi-system operator or Internet Protocol Television Operator or Headend-in-the-Sky (HITS) operator the target market shall in no case be larger than a State or a Union Territory."*

As per para 32 of the explanatory memorandum, the reason for such insertion was as given as below:

*"The Authority also considered the current stipulation of declaring target market areas with a view to consider target market on the basis of spoken language-wise regions or states. However, almost all DTH service providers have made submissions against such stipulation. DTH service providers have averred that it is due to the technology choice that they cover whole of the country with one feed. In line with this technological restraint, they have declared all India as their target market. Large MSOs, however, in-principal agreed to declare target market on the basis of linguistic regions/ state during the consultations. Many of them cited that the target markets declared by them are already aligned to a state or to an area having similar linguistic and cultural essence. Considering that there are many channels, specially New and GEC channels that are aligned to states, it seems prudent to define target market area on the basis of a state. Therefore, the Authority is of the view that in case of MSO, IPTV operator or a HITS operator the target market shall be a State or a Union Territory or any area within a State or a Union Territory covered by the head-end."*

From above, it is very clear that it is the admitted position of the Authority, that DTH is a completely different delivery platform from MSO and accordingly it allowed it to have all India as Target Market but MSO were asked to ensure that their target market is restricted to state or union territory.





Hence it is important for the Authority to lookback at its own interpretation and ensure that DTH and MSO are not treated as similar for purpose the restricting the number of Platform services. As pointed out above, target market in case of MSO is based on similar linguistic and cultural essence and accordingly barring few most of the Platform Services would be different in different target market, aligning to the linguistic and cultural essence. For example, Platform Services in Marathi would be relevant in Maharashtra but would not be relevant in Karnataka and vice versa. Hence by putting the limit on the Platform Services for MSO's, the Authority would be depriving the consumers of their local contents, which they have been enjoying for decades.

It is well known fact that all channels do not cover all the linguistic and cultural essence and only cable services through its platform services endeavour to mitigate such huge imbalance and therefore it's still surviving despite of huge competition from other regulated and unregulated platform. The Cable Services have been highly regulated in comparison to its competitive other platform and already facing non level playing field and further such proposed restriction on number of services will only facilitate to wipe out the cable services business which is day by day going towards extinction. Platform services are one of the services through which Cable Services are doing effective competition in the market and any restriction will create further non level playing field.

Hence it is imperative for the authority to have a fresh look at its recommendation, there should be no restriction on the number of Platform services in case of MSO's.

The MIB should categorically exclude the Ground based channels from the definition of Platform services. The difference between the platform services and the Ground based channels has also been acknowledged by the MIB in its consultation paper on the CTN Amendment Act which clearly distinguishes between the satellite channels, platform services and ground-based channels.

3. Para 2.52 of the TRAI's Recommendations dated 19.11.2014



Page 10 of 16

**DEN Networks Limited**

CIN: L92490MH2007PLC344765

**Corp. Office:** 236, Okhla Industrial Estate, Phase-III, New Delhi - 110 020

Landline: +91 11 40522200 || Facsimile: +91 11 40522203 || E-mail: den@denonline.in || www.dennetworks.com

**Regd. Office:** Unit No.116, First Floor, C Wing Bldg. No.2, Kailas Industrial Complex L.B.S Marg Park Site  
Vikhroli(W), Mumbai, Mumbai City, Maharashtra, India, 400079

Landline: +91 22 20870451 || E-mail: den@denonline.in || www.dennetworks.com



Authority's Recommendation - The Authority has agreed with the suggestion given by MIB which are as follows:

".....To extend TRAI recommendation for security clearance of MSOs/LCOs in non-DAS areas, to all MSOs/LCOs who are not security cleared and wish to offer PS to their subscribers. MIB will obtain security clearance of all MSOs/LCOs, who wish to offer PS and were not MHA security cleared at the time of registration, while they run their PS. However, if at any time before the MIB obtains the security clearance, it is determined that the programming service offered on PS and which has been registered on the online system is inimical to India's national security or to the public interest, MIB may require the MSO/LCO to withdraw from distribution of the PS Channel or the programming service and/or cancel the registration."

**DEN's Response** -We agree with the Authority's recommendation that the MIB will obtain security clearance of all MSO(s)/LCO(s), who wish to offer PS and were not MHA security cleared at the time of registration, while they run their PS and such MSO(s)/LCO(s) should be mandated to obtain security clearance(s) in a time bound manner. However, the responsibility of all regulatory compliances including obtaining security clearance and/or registration should be of the respective MSO or LCO, as the case may be. To avoid disruption of PS services, one-year time period may be offered to the existing PS providers to get security clearance from the date of notification of the regulations along with guidelines to obtain the security clearance.

We reiterate that the CTN Act and the CTN Rules are already applicable to the MSO(s)/LCO(s) which establishes a mechanism where criminal action may be taken against a Cable TV operator in case of any transgressions under the CTN Act. Further, under Section 19 of the CTN Act, the Authorized Officer is already empowered to prohibit the transmission of certain programmes in Public Interest. Under Section 20 of the CTN Act, the Authorized Officer even has the power to prohibit the operation of cable TV network in public interest. Hence, the concerns of the Authority/MIB are sufficiently dealt with in the present regulatory framework of the CTN Act and the CTN Rules.





We once again urge the MIB and the Authority to put in place such a comprehensive regulatory framework for the OTT platforms as well, since they are also providing platform services and illegal retransmission of registered satellite channels.

4. Para 2.7 of the TRAI's Recommendations dated 13.11.2019

**Authority's Recommendation - Authority, therefore, agrees with the views of MIB. The definition of Platform Services (PS) shall be:**

"Platform services (PS) are programs transmitted by Distribution Platform Operators (DPOs) exclusively to their own subscribers and does not include Doordarshan channels and registered TV channels. PS shall not include foreign TV channels that are not registered in India."

Registered TV channels or television channels means a channel, which has been granted downlinking permission by the Central Government under the policy guidelines issued or amended by it from time to time and reference to the term 'channel' shall be constructed as a reference to 'television channel'.

**DEN's Response** -In this regard, we reiterate the definition proposed by us in our comments to the CTN Amendment Act and state that the word 'programme' should be replaced with the term 'programme services'. Accordingly, the definition proposed by us would read as below:

"Platform Service" - are programme services transmitted in the form of channel through the addressable systems of Distribution Platform Operators (DPOs) exclusively to their own subscribers and does not include Doordarshan channels, ground-based channels and satellite TV channels.

5. Para 2.16 of the TRAI's Recommendations dated 13.11.2019

**Authority's Recommendation - The Authority agrees with the views of MIB. The authority recommends that:**







- a. The programme transmitted by the Direct To Home (DTH) operator/ Multi Systems Operators (MSOs)/ Internet Protocol Television (IPTV)/ Head-End Into The Sky (HITS) operator as a platform service shall be exclusive and the same shall not be permitted to be shared directly or indirectly with any other Distribution Platform Operator (DPO).
- b. Programme transmitted by the DTH operator/ MSOs/ IPTV/ HITS operator as a platform service shall not directly or indirectly include any registered TV channel or Doordarshan channel or foreign TV channel. Time-shift feed of registered TV channels (such as +1 services) shall not be allowed as a platform service.
- c. DTH operator/ MSOs/ IPTV/ HITS operator shall ensure and provide an undertaking to the Ministry in the format prescribed by the Ministry that the programme transmitted is exclusive to their platform and not shared directly or indirectly with any other DPO.
- d. In case the same programme is found available on the PS of any other DPO, MIB/TRAI may issue direction to immediately stop the transmission of such programme. MIB also reserves the right for cancellation of registration of such PS of the DTH operator/ MSOs/ IPTV/ HITS operator.

**DEN's Response** - We understand that the Authority has proposed the above recommendations with the sole objective of ensuring uniformity of guidelines to DTH operators and MSOs. However, the Authority while proposing its views in favour of a common regulatory regime, has failed to comprehend that both distribution platforms are significantly distinct from one another in various manners. We reiterate that the DTH operators are not permitted to provide platform services unlike MSO(s) who provide platform services in terms of the CTN Act read with the CTN Rules and to that extent are prima facie incomparable. Equating DTH with MSO(s)/LCO(s) is also fundamentally incorrect as they are incredibly different in terms of their licensing conditions, subscriber base, organization structure, mode of transmission etc. Hence, prescribing a uniform regulatory regime is highly erroneous, unfair and unequal.





Also, as stated herein above, platform services (being offered illegally as on date) by the DTH operators are satellite based and therefore, the provisions as applicable to satellite-based channels should be applicable to the platform services offered by the DTH operators including applicable fees, eligibility criteria and other conditions.

We strongly differ with regard to the aforementioned paras of the recommendation (a) (c) and (d) of the Authority to the extent that, they are hampering and interfering the basic operational structure of Cable TV industry. While on the one hand, the Authority has recommended for implementation of Infrastructure sharing in the industry, while on other hand, Authority's and MIB's intervention in the basic operational tenets of the industry will significantly increase its cost.

- Live Channels - Channels telecasting live content from religiously famous temples etc. should not be considered as platform channels. By telecasting the live content, most of the MSO's are doing community service. Also, DPO's are investing heavily to record and telecast the content. So Live channels should not be considered as Platform Channel.
- Local City Channels - Most of the MSO's are telecasting channels localized to the cities. The content consists of City happening, Government Initiatives for public, problems faced by City residents etc. No national or even regional broadcaster focuses on a single City. These channels play a very important role and are running for years. In many cases, subscribers know the MSO by its City channel name. As all major MSO's are covering multiple states and cities from one head end, so number of channels telecasted by them are high.
- NVOD channels - In case of NVOD channels, a single movie is telecasted on multiple LCN's. This helps the subscriber to watch the content without missing it. This is created for subscriber who cannot afford Broadband and OTT because of their exorbitant cost. NVOD content can called as poor man's OTT. So multiple LCN's telecasting same NVOD content is necessarily to be considered as one platform channel.





- Sharing of platform channels - As mentioned above, sharing of platform channels should be permitted as this helps MSO's in saving cost. Also, advocating non-sharing of PS channels is in contrast to the TRAI's vision of infrastructure sharing. Some entertainment programs, music, movies for which DPO has copyrights for cable network may also be available with another DPO with valid rights with rights and should not be viewed as a violation of same program by multiple PS channels
- Ownership of content - TRAI and MIB should register the Platform Channel operators and should go for security clearance. But content of Platform Channel should be responsibility of the PS operator and not of DPO.

6. Para 2.37 of the TRAI's Recommendations dated 13.11.2019

**Authority's Recommendation** - The Authority agrees with the views of MIB. The authority recommends that the DTH operator/ MSOs/ IPTV/ HITS operator shall provide an option of activation/deactivation of platform services as prescribed in the orders/directions/regulations issued by TRAI from time-to-time.

**DEN's Response** -In this regard, we state that we agree with the Authority's recommendation and are already providing this option of activation/deactivation of platform services to the subscribers/consumers However, if the platform service is a free service and part of the DPO bouquet chosen by the subscriber such deactivation of a particular channel shall not be mandatory.

7. Para 2.45 of the TRAI's Recommendations dated 13.11.2019

**Authority's Recommendation** - The Authority agrees with the views of MIB. The Authority recommends that for the DTH operator/ MSOs/ IPTV/ HITS operator:

- a. The platform services channels shall be categorized under the genre 'Platform Services' in the Electronic Programmable Guide (EPG) subject to orders/directions/regulations issued by TRAI from time-to-time.





- b. The respective maximum retail price (MRP) of the platform service shall be displayed in the EPG against each platform service subject to orders/directions/regulations issued by TRAI from time-to-time.
- c. A provision for putting a caption as 'Platform Services' may be required to distinguish the platform services from the linear channels. Government may decide the caption in a size which is visually readable by the consumers.

DEN's Response -In this regard, we state that we are in agreement with the aforementioned recommendations given by TRAI.

