

May 21, 2013

To,
Advisor (B&CS),
Telecom Regulatory Authority of India,
New Delhi

Kind Attention: Mr. Rajkumar Upadhyay,

Dear Sir,

At the outset, we compliment TRAI and yourself for the extremely well drafted guidelines for TV rating agencies in India. As part of media ecosystem, Esha Media Research Ltd concurs with almost all the issues highlighted in the draft guidelines and would like to offer the following comment as sought by you on the guidelines.

Our comments pertain to the following three issues:

- Cross holding
- People Meter
- Sample size
- Third party audit

Cross Holding

Following the recent issues pertaining to credibility and integrity in our favourite sport, Cross holding in TV monitoring companies by vested interests could sow the seed of prejudice outcomes affecting the transparency in the system as pointed out in your guidelines in point 4.20.

People Meter

TRAI's draft guidelines terms a device called People meter to provide exact viewing pattern of the subscriber without any manual intervention. We at Esha Media Research Ltd believe that a similar device, which is tamper proof and equipped to sense the absence of viewers while TV continues to function should be made mandatory for TV monitoring agencies as is the practice in most developed countries like Australia, Italy and South Africa.

Sample Size

In point 2.11 of your guidelines, you have sought for adequate sample size of TV viewers on pan India basis. Esha Media Research Ltd believes that for a population of 15.5 crore TV households should be represented by at 50,000 sample to begin with and can be enhance upto 100,000 to give a true and fair view of the outcome.

Third party audit

As mentioned in the guidelines in point no 4.18, third party audit must be undertaken at the beginning before installing the set top boxes with the monitoring device at households and they should be reviewed at regular intervals. Also the monitoring agency must be allowed the discretion to rope in multiple third party auditors to identify households for setting up set top boxes.

We look forward to a possible interaction before the final guidelines are drafted on the subject.

With warm regards,

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- **What should be the minimum panel size (in terms of numbers of households) that may be mandated in order to ensure statistical accuracy and adequate coverage representing various genre, regions, demographics etc. for robust television rating systems? Should the desired panel size be achieved immediately or in a phased manner? In case of implementing the desired panel size in phased manner, what should be the quantum of increase and periodicity of such increase in size.**

The minimum panel size in terms of households should be 25,000 with a fair spread across the country. The desired panel size for the first 25,000 should be achieved over a 18-month period and subsequently every additional 5,000 households should be covered on an annual basis. In other words, the quantum of increase should be 5,000 households and periodicity should be annual.

- **Please give your suggestions/views on as to how secrecy of panel homes can be ensured?**

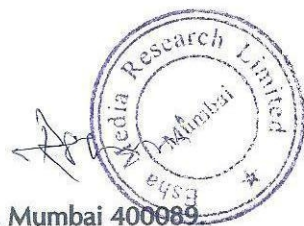
It would be difficult if not impossible to maintain secrecy of panel homes, since there is no technology to protect the same. The best way would be keep rotating the households at regular intervals to ensure that the outcome is true and fair.

- **Please give your comments on the cross holding restrictions for rating agencies as discussed in para 4.23. You are welcome to suggest modifications. Please elaborate your response with justifications.**

We agree with all the recommendations mentioned in 4.23 in totality.

- **Please give your comments on the complaint redressal mechanism discussed in para 4.25. You are welcome to suggest modifications. Please elaborate your response with justifications.**

Esha Media Research Ltd agrees with the points mentioned in para 4.25 including levy of penalty. However, such penalties should also be levied on the complaints if it found without substantial evidence and made with the intention of the defaming the TV rating agency. Also the complainant must first address his grievance with the concerned rating agency and if unresolved be taken up with the Ombudsman in the regulators office subsequent to take care of an elaborate complaint redressal mechanism.



- **Whether the rate card for sale and use of ratings should be published in the public domain by the rating agencies? Please elaborate your response with justifications.**

In an era of market forces, the rate card may turn redundant just like those of hotel rooms of 5-star hotels, where the discount to the rake rate is much higher up to 30-40% vary from one customer to another. Similarly, irrespective of rate card for subscribing these services, it would be difficult to adhere to the rate card. We at Esha Media believes that the subscription charges for broadcasters and advertising agencies must be left to the market forces to determine.

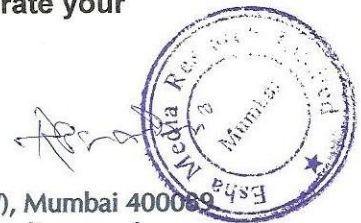
- **Whether other users apart from broadcasters, advertisers and advertisement agencies be allowed to obtain the rating data from the rating agencies? If yes, who all should be allowed to obtain and use the data from the rating agencies? If yes, who all should be allowed to obtain and use the data from the rating agencies? What restrictions should be imposed on use of the rating data by users?**

The data generated by the TV rating agency has commercial value and those who can value the same for their own consumption would be able to pay the commercial currency to acquire the same. Hence, such data should be allowed to be obtain by all those who find value in it from the TV rating agency. The data is an intellectual property of the rating agency and hence would come under the purview of copyright legislation. Hence, intellectual property law will take care of the restrictions on usage of such data.

- **Whether the user should be allowed to share the data provided by the rating agency with third parties or publically accessed media. Please elaborate your response with justifications.**

The data provided to the user is the copyright material of the rating agency. Hence the intellectual property law does not allow it to be distributed by the user. However, the user is entitled to quote the data by attributing the same to the rating agency. The Media too is allowed to quote from the data by attributing the same to the rating agency.

- **Please give your comments with regard to the parameters/procedures, as suggested in para 4.34, pertaining to mandatory disclosures for ensuring transparency and compliance of the prescribed accreditation guidelines by rating agencies. You are welcome to suggest modifications. Please elaborate your response with justifications**



We agree with para 4.34 with the exception of sub-clause (d) and (f). Sub-clause (d) pertains to comments from users which we believe is irrelevant as they may subscribe to the data if they find commercial value in the same and they may discontinue the same if there is no value. Sub-clause (f) pertains to the rate card, which to our mind, should be governed by market forces as mentioned above.

- Please give your comments with regard to the parameters/procedures, as suggested in para 4.37, pertaining to reporting requirement for ensuring effective monitoring and compliance of the prescribed accreditation guidelines by rating agencies. You are welcome to suggest modifications. Please elaborate your response with justifications.

We agree with all points of para 4.37 and willing to share all data except those governed by intellectual property and copyright issues.

- Please give your comments on the audit requirements for rating agencies as discussed in para 4.42. You are welcome to suggest modifications. Please elaborate your response with justifications.

We by and large agree with content mentioned in para 4.42.

- Who should be eligible to audit the rating process/system?

Management consultancy firms, credit rating agencies, Inspection agencies like ISO 9000, classifications societies among others.

- What regulatory initiatives are required to promote competition in rating services? Please elaborate your response with justifications.

The regulator should facilitate in entry of multiple agencies to allow market forces determine good practices to be followed by TV rating agencies subject to adequate capital as prescribed by the regulator.

- In case guidelines/rules for rating agency are laid down in the country, how much time should be given for complying with the prescribed rules to existing entities in the rating services sector, which are not in compliance with the guidelines? Please elaborate your response with justifications.

TV rating companies may be given 8-12 months time to comply with the new norms.

- Do you think integrating people meter with set top boxes is a good solution? If yes, how encourage such systems?



We strongly object to any such initiative to integrate people meter with set top boxes as it involves cable operators and other intermediaries. This would complicate the issue as the configuration of the set top box varies according to different manufacturers. Any such initiative to encourage integration would be detrimental to the large objective of a transparent and fair rating outcome.

Stakeholders may also provide their comments on any other issue relevant to the present consultation.

The objective of getting accredited from a credit rating agency is to ensure the creditworthiness of the borrower and facilitate lending for the banker. So should be the intention of the TV rating company to ensure a true and fair ranking of the TV program and channels and in turn facilitate the decision making for the advertiser and content quality for the broadcaster by establishing the interest trend of the viewer. Just like an unfair credit rating can lead to a weak banking environment, so will a biased TV rating lead to unsuccessful campaign strategies for the advertiser making the economy uncompetitive and thereby brew dishonesty and corruption in the society.

