



July 31, 2014

**Telecom Regulatory Authority of India**  
Mahanagar Doorsanchar Bhawan,  
Jawahar Lal Nehru Marg,  
New Delhi, 110002.

**Kind Attention: Agneshwar Sen**

**VIEWS / COMMENTS BY INDIACAST UTV MEDIA DISTRIBUTION PRIVATE LIMITED ON ISSUES FOR CONSULTATION LISTED IN THE CONSULTATION PAPER NO. 7/2014 DATED JUNE 23, 2014 ON REGULATORY FRAMEWORK FOR PLATFORM SERVICES**

**Introduction**

IndiaCast UTV Media Distribution Private Limited (“**IndiaCast**”) welcomes the initiative taken by the Telecom Regulatory Authority of India (“**Authority**”) in releasing the consultation paper no. 7/2014 dated June 23, 2014 on regulatory framework for platform services and seeking views of the stakeholders on issues addressed therein.

The platform services operated by Distribution Platform Operators (DPOs), namely Multi System Operators (MMSOs), Direct To Home (DTH) Operators, Headend In The Sky (HITS) Operators and Internet Protocol TV (IPTV) Operators compete with the programming services provided by Broadcasters of satellite television channels in terms of contents, air times, subscription revenues and advertisement revenues. While there are stringent regulatory guidelines to enable the Broadcasters of satellite television channels provide programming services, there are no such regulatory guidelines applicable to DPOs for provision of platform services. This coupled with the fact that Broadcasters of satellite channels also have to incur additional costs to make its programming services available on the DPOs makes the Broadcasters of satellite television channels at a much disadvantageous position vis-à-vis the DPOs. Under the circumstances, we suggest that the Authority recommend draft guidelines applicable to DPOs intending to provide platform services, which are at par with the Uplinking Guidelines applicable to Broadcasters of satellite television channels (“**DPO Guidelines**”), and seek stakeholders’ comments in relation thereto.

In this background, our broad comments to each of the issues for consultation are as follows:

**Definition of Platform Services (PS)**

1. Do you agree with the following definition for Platform Services (PS)? If not, please suggest an alternative definition:

*“Platform services (PS) are programs transmitted by Distribution Platform Operators (DPOs) exclusively to their own subscribers and does not include*

*Doordarshan channels and TV channels permitted under downlinking guidelines.”*

**IndiaCast Comment:**

As per the existing guidelines, role of the DPOs are principally to retransmit signals of TV Channels through electromagnetic waves through cable or through space intended to be received by general public directly or indirectly. TV Channels have been defined as channels registered under the Uplinking Guidelines and Downlinking Guidelines.

In view of the developments, we suggest that the Authority define ‘Broadcast Channels’ to mean the TV channels registered under the Uplinking Guidelines and Downlinking Guidelines and permitted and operational FM radio channels, and define ‘Platform Services’ to include all programming services transmitted by DPOs to their own subscribers other than retransmission of Doordarshan Channels and Broadcast Channels.

**Programs permitted on PS Channels**

2. Kindly provide comments on the following aspects related to programs to be permitted on PS channels:
  1. PS channels cannot transmit/ include
    - 2.1.1 Any news and/or current affairs programs,
    - 2.1.2 Coverage of political events of any nature,
    - 2.1.3 Any program that is/ has been transmitted by any Doordarshan channels or TV channels permitted under uplinking/ downlinking guidelines, including serials and reality shows,
    - 2.1.4 International, National and State level sport events/ tournament/ games like IPL, Ranji trophy, etc.

**IndiaCast Comment:**

We agree with the view of Hon’ble Regulator as to, PS channels should not be permitted to transmit any news event, current affairs programme, or coverage of political events, or content of any TV channels permitted under uplinking / downlinking guidelines, or any sports event for that matter. Emphasis should be placed covering local news or political event.

It has also been observed that in the absence of modern equipment and qualified staff to cover these events, DPO’s indulge in copyright violation by taking the contents of these channels either from TV screen or by Internet and transmitting the same on their local channel which not only causes loss to the Broadcaster or content owner damages its reputation, inter alia, brings down the journalistic ethics and fair reporting standards.

2. PS channels can transmit/ include



2.2.1 Movie/ Video on demand

2.2.2 Interactive games,

2.2.3 Coverage of local cultural events and festivals, traffic, weather, educational/ academic programs (such as coaching classes), information regarding examinations, results, admissions, career counseling, availability of employment opportunities, job placement.

2.2.4 Public announcements pertaining to civic amenities like electricity, water supply, natural calamities, health alerts etc. as provided by the local administration.

2.2.5 Information pertaining to sporting events excluding live coverage.

2.2.6 Live coverage of sporting events of local nature i.e. sport events played by district level (or below) teams and where no broadcasting rights are required.

**IndiaCast Comment:**

We do agree that PS channels should be allowed to cover interactive games, local cultural events & festival, traffic, weather, educational/academic programs, information regarding examinations, results, admissions, carrier counseling etc. Public announcements pertaining to civic amenities like, electricity, water supply, natural calamities, health's alerts etc. or for that matter, live coverage of sporting events of local nature, which does not require any broadcasting rights.

3. What should be periodicity of review to ensure that the PS is not trespassing into the domain of regular TV broadcasters?

**IndiaCast Comment:**

Without prejudice to the rights available to the Broadcasters of Broadcast Channels under applicable laws, we suggest that the DPOs be permitted to have self-regulatory mechanism to ensure that the contents PS Channels are in compliance with the programme code and advertising code and not trespassing into the domain of the Broadcast Channels.

Further, the periodicity of review to ensure that the PS is not trespassing into the domain of Broadcast Channels should be every six (6) months. The Authority should also carve out strict punishment and strict penalty.

**Eligibility Criteria for registration of PS**

4. Should it be mandatory for all DPOs to be registered as Companies under the Companies Act to be allowed to operate PS? If not, how to ensure uniform legal status for all DPOs?

**IndiaCast Comment:**

In order to ensure compliance of DPO Guidelines, it will be mandatory for DPOs operating PS Channels (particularly 'Non-News & Current Affairs' channels) to

be registered under the Companies Act. This would also be beneficial in compliance of net worth and FDI obligations, as discussed below.

### **FDI Limit for PS Channels**

5. Views, if any, on FDI limits?

#### **IndiaCast Comment:**

The FDI limits in DPOs are about 74% [automatic route upto 49% and government route beyond 49% and upto 74%]. However, the FDI limit in Broadcasters of 'News & Current Affairs' channels is substantially low at 26% as contents of such channels are considered more sensitive as it has the power to influence public opinion and may have bearing on maintenance of public order, security of State, and maintenance of communal harmony. In order to ensure parity and sensitivity, if DPOs were to provide PS Channels pertaining to 'News & Current Affairs', suggest the FDI limits in such DPOs be limited to 26%. In the absence of such limitations, the Uplinking Guidelines read with the FDI Policy as it relates to 'News & Current Affairs' Channels may be circumvented and 'News & Current Affairs' channels may be operated by DPOs as PS Channels.

### **Net Worth of DPO**

6. Should there be any minimum net-worth requirement for offering PS channels? If yes, then what should it be?

#### **IndiaCast Comment:**

The required net worth for Broadcasters of 'Non-News & Current Affairs' channels are Rs. 5.00 Cr. for first TV channel and Rs. 2.50 Cr. for each additional TV channel and for Broadcasters of 'News & Current Affairs' channels are Rs. 20.00 Cr. for first TV channel and Rs. 5.00 Cr. for each additional TV channel. There are no such net worth requirement for DPOs. This has promoted non-serious DPOs (particularly MSOs) in this sector, thereby, amongst others, impacting the implementation of digitalization. In view thereof, we suggest that net-worth requirement be imposed on DPOs providing PS Channels should be in line with the net-worth requirement of Broadcaster Broadcasters of satellite television channels.

### **Security Clearance of PS Channels**

7. Do you agree that PS channels should also be subjected to same security clearances/ conditions, as applicable for private satellite TV channels?



**IndiaCast Comment:**

In view of the submissions made herein above, we suggest that PS Channels also be subjected to same security clearances/ conditions, as applicable for Broadcasters of satellite TV channels.

**Registration of PS Channels**

8. For the PS channels to be registered with MIB through an online process, what should be the period of validity of registration and annual fee per channel?
9. What is your proposal for renewal of permission?
10. Should there be any limits in terms of geographical area for PS channels? If yes what should be these limits.

**IndiaCast Comment:**

In view of the submissions made above, we suggest that the DPOs be obligated to seek permission from the MIB prior to transmission of PS Channels, as applicable for the Broadcasters of satellite TV channels. The period of permission may be 10 years. The renewal process for PS Channels may be similar to the renewal process for satellite TV channels. The DPO may be permitted to provide signals of PS Channels in the areas authorized by the MIB.

**Cap on total number of PS Channels operated by DPO**

11. Should there be a limit on the number of PS channels which can be operated by a DPO? If yes, then what should be the limit?

**IndiaCast Comment:**

There should be a maximum limit on the number of PS Channels which can be operated by a DPO and the same should not exceed 5 % of their Channel carrying capacity.

**Other obligations of DPO**

12. Do you have any comments on the following obligations/ restrictions on DPOs:
  - 12.1. Non-transferability of registration for PS without prior approval of MIB;
  - 12.2. Prohibition from interconnecting with other distribution networks for re-transmission of PS i.e. cannot share or allow the re-transmission of the PS channel to another DPO; and
  - 12.3. Compliance with the Programme & Advertisement Code and TRAI's Regulations pertaining to QoS and complaint redressal.



13. What other obligations/ restrictions need to be imposed on DPOs for offering PS?

**IndiaCast Comment:**

Under the DPO Guidelines, all rights and obligations that are applicable to the Broadcasters of satellite television channels must be made applicable to DPOs intending to transmit PS Channel.

**Re-transmission of radio Channels**

14. Should DPO be permitted to re-transmit already permitted and operational FM radio channels under suitable arrangement with FM operator? If yes, then should there be any restrictions including on the number of FM radio channels that may be re-transmitted by a DPO?

**IndiaCast Comment:**

Subject to the DPOs complying with DPO Guidelines and having a valid contract with FM Radio Operators, there should not be any restrictions in retransmission of permitted and operational FM radio channels.

**Monitoring**

15. Please suggest the mechanism for monitoring of PS channel.

**IndiaCast Comment:**

We suggest that the DPOs be permitted to have a full-proof self-regulatory mechanism validated by the MIB to ensure that the contents PS Channels are in compliance with the programme code and advertising code.

Alternatively, MIB vide order No. F 1203/1/2007-BCII dated 19.02.2008 has already constituted monitoring committees for private TV channels at state and district levels. The same can be extended to the monitoring of PS channels.

**Penal Provisions**

16. Do you agree that similar penal provisions as imposed on TV Broadcasters for violation of the terms and conditions of their permissions may also be imposed on PS? If not, please suggest alternative provisions.

**IndiaCast Comment:**

In view of the submissions made above, we suggest that similar penal provisions as imposed to the Broadcasters of satellite television channels for violation of the terms and conditions of their permissions be also imposed on the DPOs operating PS Channels.



**Amendments to existing provision**

17. What amendments and additional terms & conditions are required in the existing registration/ guidelines/ permission/ license agreements w.r.t. DPOs for regulating the PS channels?

**IndiaCast Comment:**

The changes to the Cable Act, Cable Rules, the Interconnection Regulations, QoS Regulations, Register of Interconnection Regulations, etc. would largely depend on the provision of DPO Guidelines. Presently, it may be slightly premature to comment on the same.

**Time for adoption of new regulatory framework**

18. What should be the time limit that should be granted to DPOs for registration of the existing PS channels and bring them in conformity with the proposed regulatory framework once it is notified by MIB?

**IndiaCast Comment:**

It is likely that digitalization will be implemented across India effective December 31, 2014. Accordingly, the DPOs may be granted time until January 1, 2015 for registration of the existing PS channels and bring them in conformity with the proposed regulatory framework once it is notified by MIB.

**Any Other issue**

19. Stakeholders may also provide their comments on any other issue relevant to the present consultation including any changes required in the existing regulatory framework.

**IndiaCast Comment:**

None, for the time being.

Yours Sincerely,  
**For IndiaCast UTV Media Distribution Private Limited**



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**Authorized Signatory**