

**Response
To
Consultation Paper On
Headend-In-The-Sky (HITS)
Dated July 24, 2007**

by
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What should be the scope of the HITS operations? Whether the scope of the HITS operator should include both the models as stated under heading “scope of HITS operation” in paras 4.5 and 4.6 ?

As a regulator, TRAI should always strive to regulate only the misuse of the technology and at the same time it should help the stakeholders to optimize the technology in whatever way the science could possibly allow at that instant of time to yield comfort for the people of India. If this spirit is maintained then the answer is obvious that both models should be allowed.

Whether HITS operations should be allowed in C-Band or in Ku band or in both?

It should be allowed in both bands and reason is same as above.

Whether a HITS operator should be restricted to offer services only to the cable operator? Alternatively, should HITS operator be allowed to serve the end customer also directly? If yes, then whether the restriction on DTH to service end customer only needs any review?

There shouldn't any difference between DTH and HITS. To be precise both the operations should be merged under the head HITS. It should be left to the operator to use whatever the transponder they like and they should be allowed to serve whatever the type of customers they want to.

What should be the limit of Foreign Direct Investment (FDI) for HITS licenses? Should there be any restriction on the maximum limit on the composite figure of FDI and FII?

FDI on broadcasting should be raised to the level similar to telecom since now we're in the era of convergence. Since the content is monitored regularly we can control the sensitivity of the news broadcasted. We're a strong nation and our citizens are matured enough to know whether the news telecasted is a false propaganda or not.

What should be the entry fee and the annual license fee for HITS?

Should be similar to what is currently followed for the DTH operator. All the current DTH operators should be migrated to HITS operators and Aggregators (later explained). The argument that HITS is similar to MSO is not valid since HITS operator consumes the transponder and also some spectrum which are national/international resources. It enables him for national footprint which can't be compared to MSO's footprint since it may take decade to lay wires to that extent (covering nook and corner of the country). The entry fee and annual fee will also keep the non serious operators out of the contention thus by saving valuable resources.

Whether HITS operator should be allowed to uplink from outside India also?

If yes, what are the safeguards needed for monitoring the system?

What are the checks and balances required to be put in place to address the level playing field issue with the operators uplinking form India?

As long as we have strong content monitoring capability we should not be worried about from where it has been broadcasted. Only thing which has to be addressed here is whether we've enough mechanism to monitor all the content which is beamed out of transponders in the sky on to the Indian soil. If that can be ensured we should not be bothered about the owner of the transponders or the location of the earth station.

Should any interconnection issues be addressed in licensing conditions?

Whether "must carry/must provide" conditions be imposed on HITS operation?

The definition of the HITS operation is limited to uplinking from the earth station and downlinking from the transponders. Govt should provide license for this scope alone.

Whether the HITS operator acts as a content aggregator at the uplinking end or whether he acts as just infrastructure provider or he acts as distributor at the dowlinking end should be out of scope of this license. As there has been already a non-discriminatory sharing guideline for content sharing signal should flow from broadcaster to end consumer through all intermediate operators (Aggregator, HITS and Distributor) where these entities act as seamless conduit. Aggregator and Distributor functionality should be treated separately and charged similar to current MSO.

So in nutshell the following are the parallel possible scenarios for single HITS operator

Broadcasters → Aggregator → HITS operator → Distributor → Consumer

Broadcasters → Aggregator → HITS operator → Consumer (Similar to DTH)

The functionality of Aggregator, HITS operator and Distributor can either be handled by single entity or multiple entities. If all three are handled separately then there will be a scenario in which the set-top boxes will be provided by aggregator to distributors. The distributor can either decrypt and mix his own signals and re-encrypt and send it to consumers (consumer will use distributors set-top boxes) or just act as pipe and the decryption will be done in consumer's house (consumer will use aggregators set-top box). In the cases where aggregators and distributors are different entities there should be Govt. framed guideline mechanism for providing decryption equipments to distributors by aggregators. This guideline should be framed to protect the interest of the small CSPs with rural footprint who are incapable of becoming aggregators.

As TDSAT has observed that all the channels can't be carried due to bandwidth constraint, there should be a transparent mechanism in which we can find out 'must carry' channels. TRAI should come out with some concrete viewership rating to find out top 200/300 channels which must be carried. Any new channel 'must' be carried for atleast 6 months to find out its viewership rating and it can be moved to must carry or optional. A single broadcaster should not be allowed to start more than 2 channels within 6 months time-gap.

Whether a stipulated network of specified amount be made as an eligibility criteria to avoid any non-serious applicant?

I hope this should not be required since the license cost and the revenue sharing annual fee in addition to the transponder fee which he pays per year should take care of the non-serious applicant.

Should HITS operator be allowed to offer value added services?

Should be allowed. As long as the technology is available to be used then the Regulator should facilitate it.

Should there be any cross holding restriction? If yes, please suggest the nature and quantum of restrictions.

Yes. It should be there similar to what is available for DTH operators now. This should be applied at all nodes of the signal chain like Broadcasters ↔ Aggregators, Broadcasters ↔ HITS operators, Broadcasters ↔ Distributors to obliterate the vertical integration.

But within Aggregators, HITS operators and Distributors there can be amalgamation at the current scenario. TRAI can re-look at these nodes at a later point of time when the situation matures.

Should spectrum charges be recommended to be done away with for HITS service provider?

As it is not available with current DTH operators we can do away with it for HITS operators who are uplinking from India.