

Counter Comments

on TRAI CP¹PR^{2,3}

Introduction:

1. The CP⁴ is in the nature of both **ex post facto** & **ex ante**.

ex post facto:

Drive in theatre:

2. Para 1.3 of CP⁵ defines a drive in 'theatre'. **Inter-alia** it has been mentioned there in that 'The low-power FM broadcasting is one of the methods to transmit movie audio to the audience in a drive-in theatre.'

2.1 A list of 'Drive in Theatres' extracted from⁶ is at.⁷

2.2 Methods of sound broadcasting used in Drive-in Theatres are explained in Annexure III of CP⁸.

ex ante:

3. 'the Ministry of Information and Broadcasting grants permission to eligible organizations for setting up Community Radio Stations in India. The Ministry had recently received an application from M/s PVR Limited, seeking permission to establish a Community Radio Station, to be used for commercial purposes. The application could not be acceded to as commercial (profit-oriented) entities are prohibited from applying for Community Radio license, under the Policy Guidelines for setting up Community Radio Station in India.'⁹

4. 'The applicant, however, informed that he intends to establish a low power FM transmission system, to be used commercially for Drive-in theatre application.'¹⁰

Legislative Frame Work:

5. MIB has sought recommendations of Telecom Regulatory Authority of India (TRAI) on the need & timing for introduction of new service provider under Section 11(1)(a)(i) of TRAI Act.¹¹

6. Acts referenced in the CP are:

6.1 Indian Wireless Telegraphy Act, 1933.¹²

6.2 Companies Act, 2013¹³.

6.3 Companies Act, 1956, etc¹⁴.

6.4 It is, however, seen that in India, the Broadcasting Bill, 1997 (which was not enacted into law)¹⁵.

6.5 Indian Telegraph Act 1885(13 of 1885)¹⁶.

Rules referenced in the CP are:

6.6 Exemption from Licensing Requirement Rules 2018¹⁷.

Policy Guide Lines referenced in the CP are:

6.7 POLICY GUIDE LINES ON EXPANSION OF FM RADIO BROADCASTING SERVICES THROUGH PRIVATE AGENCIES(PHASE III)¹⁸.

6.8 Policy Guidelines for Community Radio¹⁹.

6.9 As per existing policy guidelines, permissions for private FM Radio channels are granted on a city basis. For this purpose, cities are divided into six categories based on population.²⁰

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7. 'stakeholders are requested to provide their comments on whether there is a need for the introduction of new service provider for using low power FM Radio broadcasting by various entities.'²¹.

Issues for Consultation

Q 1. Should the use of low power small range FM Radio broadcasting by various entities be licensed or unlicensed? Please provide your comments with detailed justification.

Q 2. In case use of low power small range FM Radio is licensed, whether there is a need for the introduction of a new category of service provider for using low power small range FM Radio broadcasting? Please provide your comments with detailed justification.

Q 3. Should the low power Radio equipment continue to be subjected to type approval by WPC?

a. If yes, do the current technical specifications / approval process require any amendment/ modification/ simplification?

b. If not, please suggest as to how to ensure quality standards for the equipment and users of low power FM services.

Q 4. In case, stakeholders consider that license is necessary for low power small range FM broadcasting, what should be the:

a. Eligibility criteria

b. Period of License

c. Entry Fee

d. License Fee

e. Area of operation

f. Policy/ Methodology for allocation of Spectrum

g. Prescribed Technical parameters, if any

h. Any additional terms and conditions governing such license.

Q 5. Whether particular frequencies in the existing FM band can be dedicated for low power FM Radio broadcasting? Please provide details with justification.

Q 6. What should be the licensed area of frequency assignment- location wise (Stadium, Auditorium, Malls, Residential complex etc.) or city wise. Please provide details with justification.

Q 7. What should be the maximum power of a low power small range FM transmitter? Please provide your inputs with detailed justification.

Ans. Q 1. to Q 7.- There are no specific answers to the questions. Kindly refer to **Ans.8.** also. A new category of service has been discussed under **Item 'A. Need for the introduction of new category of service provider for using low power small range FM Radio broadcasting'** of CP²²

and also as per para '7' Chapter II' of CP²². 'stakeholders are requested to provide their comments on whether there is a need for the introduction of new service provider for using low power FM Radio broadcasting by various entities.' And the questions are framed relevant to 'a new service'.

Q 8. Stakeholders may also provide their comments on any other issue relevant to the present consultation.

Ans. 8.

Conclusions:

8. Kindly refer to para 6.4 of **Introduction** above:

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8.1 Accordingly it is safe to assume that there is no extant **Central Legislative Frame Work** for Broadcasting in **INDIA** possibly resulting in lack of Legislative Framework umbrella for Policy Guide Lines of paras **6.7,6.8,6.9** of **Introduction** above.

8.2 Legislative Framework if any relevant to the said Policy Guidelines has not been provided in the extant CP²³.

9. Kindly refer to paras **2,2.1,2.2** of **Introduction** above:

9.1 TRAI is providing a definition of Drive in theatre and also AUDIO arrangement for the same now although the service is already a reality. This consultation comes in the ambit of **ex post facto**.

9.2 The provision of definition now alludes to that the 'Drive in theatre' is a new service not defined previously.

9.3 'Methods of sound broadcasting used in Drive-in Theatres' explained in Annexure II of CP²⁴ do not specify whether audio broadcasting is Digital Radio / analogue FM/AM.

9.4 'Comments of the stakeholder Digital Radio Mondiale (DRM) Consortium on the TRAI's Consultation Paper No 07/2023 dated 17th April 2023 on 'Issues related to Low Power Small Range FM Radio Broadcasting'²⁵ CP²⁶ is a detailed exposition on Digital Radio including its current use in INDIA.

10. Kindly refer to para '**7**' of **Introduction & Ans. Q 1. to Q 7.** above:

10.1 'Issues for Consultation' relate to a new service.

10.2 No definition of the new service/or any reference defining the same has been provided in the CP²⁷ except the entry²⁸.

Items submitted for kid consideration please:

Kindly refer **8,8.1.8.2;9,9.1,9.2,9.3,9.4 & 10,10.1,10.2** paras of **Conclusions** above:

11. Appropriate action is needed to have a Legislative Framework for Broadcasting for INDIA early.

12. Definition for a New **BROADCAST** service under consultation may be covered under Legislative Framework prior to consideration of a new category of service provider for the same.

13. A White Paper **Report** on '**Drive in Theatre**' may be issued.

14. Use of **Digital Radio** may be formalised.

References

1. https://traigov.in/sites/default/files/CP_17042023.pdf

2. https://traigov.in/sites/default/files/PR_No.35of2023.pdf

3. https://traigov.in/sites/default/files/PR_No.44of2023_0.pdf

4. supra '1'.

5. ibid.

6. https://davp.nic.in/thupload/public_theatre_list.aspx

7.

(i)**809** Visakhapatnam Visakhapatnam TH20170000118 Balaji Drive- In Theatre 300

(ii)**2053** Jamnagar Jamnagar TH20220000910 JCR Drive-In Cinema 298

(iii)**4795** Bhopal Bhopal TH20220000876 MPT - Bhopal (Drive In Cinema) 75

(iv)**5321** MUMBAI MUMBAI TH20230002421 PVR MAISON, JIO WORLD DRIVE- BANDRA KURLA COMPLEX -**AUDI** 133

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5322 MUMBAI MUMBAI TH20230002411 PVR MAISON, JIO WORLD DRIVE- BANDRA KURLA COMPLEX -**AUDI 2** 44

5323 MUMBAI MUMBAI TH20230002420 PVR MAISON, JIO WORLD DRIVE- BANDRA KURLA COMPLEX -**AUDI 3** 34

5324 MUMBAI MUMBAI TH20230002309 PVR MAISON, JIO WORLD DRIVE- BANDRA KURLA COMPLEX -**AUDI 4** 331

5325 MUMBAI MUMBAI TH20230002328 PVR MAISON, JIO WORLD DRIVE- BANDRA KURLA COMPLEX -**AUDI 5** 220

5326 MUMBAI MUMBAI TH20230002329 PVR MAISON, JIO WORLD DRIVE- BANDRA KURLA COMPLEX -**AUDI 6** 220

(V)**7622** Tiruchirappalli Thiruvanaikovil TH20220001770 MOORTHY'S DRIVE IN THEATRE 200

8. supra '1'.

9. para '1.4' of supra '1'.

10. ibid.

11. para 1.5 of supra '1'.

12. para 2.8 of supra '1'.

13. para 2.20 supra '1'.

14. page '13' supra '1'.

15. page '14' supra '1'.

16. Annexure '(III) supra '1'.

17. ibid.

18. Annexure to Annexure IV of supra '1'.

19. Annexure V of supra '1'.

20. para 2.31. of supra '1'.

21. para 2.18 of supra '1'.

22. supra '1'.

23. ibid.

24. ibid.

25. https://traai.gov.in/sites/default/files/Digital_Radio_Mondiale_24052023.pdf

26. supra '1'.

27. ibid.

28. supra '21'.