

Response to TRAI's Consultation Paper on "Ease of Doing Business"

We would like to take this opportunity to thank and applaud Telecom Regulatory Authority of India (TRAI), for coming out with a Consultation Paper seeking solutions and ideas to promote ease of doing business in the Broadcasting Sector. As has been noticed and mentioned in the Consultation Paper, there are certain impediments, which are slowing down the growth of the sector and the removal of which can create a conducive business friendly environment.

Our response to the Consultation Paper is limited to those issues, which are related/ relevant to Cable Television Services. Our detailed comments on the same are mentioned below:

Q9. What are the specific issues affecting ease of doing business in cable TV sector? What modifications are required to be made in the extant framework to address these issues? Give your comments with justification.

AIDCFs Response: Under extant Policy Framework, every MSO (which has FDI) is required to seek prior permission from MIB for effecting any change of directors/ key personnel and before making any appointment to the Board of Directors. Such permission is granted by MIB only after obtaining security clearance from the Ministry of Home Affairs. The grant of Security Clearance by the Ministry of Home Affairs requires considerable time. Due to the

delay in grant of Security Clearance, the appointment and/ or change of directors/ key personnel cannot take place, which can result in the MSO being non-compliant with other laws. Even under the new Consolidated FDI Policy (applicable w.e.f. 28.08.2017), the conditions have remained the same. It is relevant to point out here, that under the FDI Policy all stakeholders in the Broadcasting Sector have been treated at par, even though there is a stark difference in their roles and responsibilities. MSOs are essentially only re-transmitting signals provided to it by Broadcasters, and are not creators of content. Hence, such stringent requirements with regard to change of directors/ key personnel and appointment to Board of Directors, may be dispensed with regard to MSOs, more so in view of the role performed by an MSO.

Another issue which has been noted in detail in the consultation paper is the problems faced by MSOs in obtaining permission for Right of Way. At present, multiple permissions are required from different authorities, who also demand variable amounts, making it very difficult, time consuming and an expensive affair to obtain such permissions. It is suggested that a single-window clearance be set up by the State Government, from which permission can be sought. Also, the charges for Right of Way permission, should be fixed in a uniform manner.

An issue, which has cropped up after implementation of the GST is the levy of cess and/ or municipal taxes by local authorities on services being provided by MSOs and/ LCOs. The implementation of GST has subsumed the component of Entertainment Tax levied by the State Governments. However, within a few months of implementation of GST, some State Governments have started levying additional taxes. For the ease of doing business, it is imperative that there should consistency in the tax structure, rather than frequent changes and imposition of new taxes. The change in tax structure, affects the entire business model and also future/ expansion plans. Unless there is consistency, it is very difficult to plan expansion or the modes and manner of future growth. Once, a new law like GST has been

implemented, it should at least have been tried out for a couple of years, before imposition of additional taxes.

Under the extant Regulatory Regime, every MSO is required to set-up its own CAS and SMS, resulting in huge expenditure on infrastructure which is a waste of resources. A clear policy should be laid down permitting sharing of infrastructure i.e. CAS, SMS, STBs cables, wires etc. The License conditions will have to be modified accordingly to permit the same. Infrastructure sharing will result in huge savings to everyone in the entire Broadcasting Sector and lowering the entry barrier for new entrants.

It is also suggested that Local Bodies should be provided incentives to develop infrastructure, which can thereafter be utilized by the Service Providers on payment of requisite fee. This will ensure, that the Right of Way issues faced by Service Providers are lessened, as the Local Authority would have already laid down the necessary infrastructure, which would be utilized by multiple service providers. It would also lessen the chances of accidental damage to the infrastructure, as all maintenance would be handled by the concerned local authority.

A major issue being faced by MSOs prior to implementation of GST, was the attempt by various State Governments to make the MSO responsible for collection of Entertainment Tax from the LCOs, without appreciating the fact that the LCO was neither an agent nor a franchisee of the MSO. Since, the MSO and the LCO enter into a relationship on a principal to principal basis, the MSO cannot be made liable or responsible for the default of the LCO. It should be ensured that going forward, the MSO should be responsible for collection and/ or deposit of those statutory dues/ taxes which are imposed upon it and not on other entities, over which it has no control.

Q10. Is there a need to increase validity of LCO registration from one year? In your view, what should be the validity of LCO registration? Give your comments with justification.

AIDCFs Response: We agree with the suggestion of the TRAI that the validity of LCO Registration should be increase to 5 years. Providing a longer registration period, will allow both the MSO and the LCO to make a long-term business plan, as also avoid issues with regard to execution and/ or renewal of Interconnect Agreements on account of non-renewal of LCO Registration.

It is also proposed that the process of Registration of LCOs, ought to be centralized and brought under the ambit of the MIB, rather than the Postal Department. It is submitted with utmost respect, that the Postal Authorities have no role to play in the Broadcasting Sector and all registrations should be done with the Nodal Ministry i.e. MIB. The Registration with MIB, will also ensure setting up of a centralized database of LCOs, which will be beneficial to all the stakeholders. It will also help the MIB in identifying the exact number of LCOs who are operating in the Sector and would be useful in getting feedback and redressal of grievances. It is suggested that the process of Registration can be done through an Online Portal, so as to simplify the procedure and to easily provide access to such services even in Remote Areas, without requiring the personal presence of the concerned individuals. It is also imperative, that the process of Registration remains mandatory and strict action be taken against all stakeholders who flout the same.