

**Bharti Telemedia
Limited**

India & South Asia
Airtel Center, Plot No. 16,
Udyog Vihar, Phase-IV,
Gurugram - 122015
Haryana, India

www.airtel.in
Call + 91 124 4222222
Fax + 91 124 4243 252



TRAI/FY23-24/53
Dated: 07.11.2023

To,
Shri Anil Kumar Bharadwaj Advisor (B&CS)-II
Telecom Regulatory Authority of India,
Mahanagar Door Sanchar Bhawan,
JawaharLal Nehru Marg,
New Delhi – 110 002.

Subject: Response to Pre-Consultation Paper on “Inputs for Formulation of National Broadcasting Policy”

Dear Sir,

This is in reference to TRAI’s Pre-Consultation Paper on “Inputs for Formulation of National Broadcasting Policy” dated 21.09.2023 (CP No. 18/2023).

In this regard, please find enclosed our response for your kind consideration.

Thanking You,

Yours’ Sincerely,
For Bharti Telemedia Limited

Rahul Vatts
Chief Regulatory Officer

Encl: a.a

Copy to:
Secretary, TRAI
Member, TRAI
Principal Advisor (B&CS), TRAI

Preamble

1. Airtel thanks the Telecom Regulatory Authority of India (TRAI) for providing it with the opportunity to submit comments on TRAI's Pre-Consultation Paper on 'Inputs for Formulation of National Broadcasting Policy', released on September 21st, 2023. We laud TRAI's initiative and efforts made towards compilation of a forward-looking strategy document to achieve policy objectives as suggested in the paper. The present pre-consultation is critically important to holistically address the financial health of the broadcasting sector and review of the current bottlenecks.
2. Particularly, we welcome TRAI's endeavor to provide a common approach for licenses, oversight, and compliances in the broadcasting sector for reaping the benefits of convergence indicating a more uniform approach to traditional and digital mediums.
3. The National Broadcasting Policy (NBP) can be an important tool for sector's growth, by bringing forth policy principles to guide the development of the sector and increase its contributions to the Indian economy.
4. Today, the DTH industry is facing enormous hardships even in its basic survival. The problem is further exacerbated when the same content is distributed across different platforms viz. DTH, FreeDish and broadband but are subject to different Rules & Regulations. The Regulator needs to evolve and keep pace with the technological advancements & market dynamics. We hope that NBP will present an opportunity for making this significant policy change and bring parity in regulation of all content delivery platforms.

Changing landscape of the Broadcasting & Cable Sector

The broadcasting landscape has been undergoing significant changes in recent years, driven by advancements in technology, shifts in consumer behavior, and regulatory developments. Over the years, the Government and the Regulator have also ensured timely policy and regulatory interventions, to promote plurality of broadcasting services and emergence of multiple distribution platforms such as cable TV, DTH, HITS, and IPTV in broadcasting sector.

- **Digital Transformation:** Traditional broadcasters are increasingly embracing digital technologies. Many have transitioned to digital transmission, which allows for higher-quality video and audio. This transition also enables the use of data for targeted advertising and more interactive content.
- **Convergence of Media:** Traditional broadcasters, cable companies, and telecommunications providers are increasingly converging to offer bundled services that include TV, internet, and mobile. This convergence has led to more competition and a blurring of lines between different forms of media. The convergence of media, telecommunications, and technology companies has made it difficult to define what constitutes a "broadcaster." Regulators need to adapt their definitions and rules accordingly.
- **Competition and Consolidation:** The broadcasting industry is experiencing both competition and consolidation. Large media conglomerates are acquiring smaller players, which can impact the diversity and ownership of media outlets.

- **AI and Automation:** Artificial intelligence is being used for various purposes in broadcasting, from content recommendation algorithms to automated content creation, video analysis, and improving user engagement.
- **User-Generated Content:** Platforms like YouTube, Instagram, have enabled anyone to create and distribute their content. This has disrupted traditional broadcasting models.
- **VR and AR Broadcasting:** Virtual reality (VR) and augmented reality (AR) technologies are starting to be used for immersive broadcasting experiences, such as live sports events or interactive storytelling.

These changes reflect the ongoing evolution of how content is produced, distributed, and consumed. The broadcasting landscape is becoming more diverse, interactive, and personalized, with technology and consumer preferences playing a pivotal role in shaping its future.

Myriad of Laws and Uneven Regulatory Framework: Creating a Non-Level Playing Field

I. The broadcasting sector is presently governed by service specific Act, Rules and Guidelines for various license/ registration/ permission issued from time to time.

- a. As per the Allocation of Business Rule, the Ministry of Information and Broadcasting (MIB) is the nodal Ministry for all broadcasting activities in the country. It acts as policy maker, licensor, and content regulator. The MIB grants registration/permission for following broadcasting services:
 - Satellite TV channels
 - Teleports
 - Direct-to-Home (DTH) service
 - Private FM services
 - Headend-in-the-sky
 - MSOs
 - Community Radio Stations
- b. Telecom Regulatory Authority of India (TRAI) is the regulator for broadcasting and cable services in so far as it regulates tariff, interconnection and QoS for broadcasting services and cable services.
- c. Ministry of Communications & Information Technology (WPC and NOCC) is vested with the responsibility for regulating and operational coordination of broadcasting spectrum and grant of wireless operating license for broadcasting services.
- d. Department of Space (DoS) is the nodal agency for coordinating use of satellites and clearance for broadcasting activities.

The present policy has decision-making and regulation spread across, with overlaps, between TRAI, the DoT, Wireless Planning & Coordination Wing (WPC), MIB, the Department of Space (DoS), the Bureau of Indian Standards (BIS), conforming testing, and other compliance requirements. **This results in complex regulation, delays, overlapping regulations, and conflicting compliance requirements**

II. To add to the complexity, there is uneven regulatory framework creating a non-level playing field vis-a-vis competition:

- a. India created an enabling and progressive regulatory framework that ensured:
 - All broadcasting content is available to customers without discrimination through every pipe i.e., DTH, multi-system operator, IPTV and HITS operators, – **through TRAI “Must Provide” Principle.**
 - Separation of Broadcast and Distribution sector – **through MIB Cross-holding restrictions**
- b. This framework built on sound regulatory principles such as customer choice, transparency, and non-discrimination, has ensured non-exclusivity for all stakeholders and worked exceptionally well so far.
- c. However, today technological advancement and consumer behavior has dramatically changed the way how content may be delivered. Due to availability of high-speed broadband services through 5G wireless (delivering 50-500 Mbps speeds) or fixed line broadband, a fundamental shift has happened in content broadcast, **accelerated due to convergence of distribution platform on wireless and wireline broadband.**
- d. Now, same content can be viewed by customer across different access pipes (viz DTH, MSOs, Cable, HITS, IPTV, broadband), however there are glaring anomalies in their Licensing and Regulatory treatment. This has created an anti-competitive environment and a non-level playing field.
- e. The differential regulatory approach can be further understood through the following table:

Mode of Content delivery / access	Content rides on (underlying bearer)	Is Mode regulated (Y/N) - Need License or Registration	Pays License Fee (Y/N)	Tariffs Regulated (Y/N)	Licensed under & regulated by (for access & carriage)
DTH	Satellite & Dish	Yes (License)	Yes (8%)	Yes	MIB & TRAI
MSOs / Cable TV	Satellite, Dish & Cable / Fiber	Yes MSO (Licence); Cable (Registration)	No	Yes	MIB & TRAI
IPTV	Fiber	Yes (License)	Yes** (8%/ 0%)	Yes	DoT/MIB & TRAI
HITS	Satellite, Dish & Cable / Fiber	Yes (License)	No	Yes	MIB & TRAI
DD Free Dish	Satellite & Dish	No	No	No	Under Prasar Bharti Act (no TRAI regulation apply on it)
Digital/ OTT Platforms	Highspeed broadband (Wireless / Wireline)	No	No	No	No

- f. **Platforms like OTTs and DD Free Dish provide the same content, as provided by DTH operators to subscribers with no commensurate obligations of any kind.** This is the result of the same content either being made available for free (on DD Free to Air) or provided on the same screen

through a broadband pipe at unregulated prices (on OTT platforms). This is against the basic premise of TRAI's endeavor to have a balanced regulatory framework.

- g. DD Free Dish carries several channels that are pay channels for subscribers of other DPOs, whereas such channels are free for DD free Dish customers. There is no regulatory capping on carriage fee earned by DD Free Dish; it earns carriage fee as per the rate determined through the auction of its capacity. Other DPOs face stringent regulatory capping on carriage fee that they can charge from broadcasters (i.e., up to INR 4 lakhs per month per SD channel). **This has severely affected entire DPO Industry as over the time, it has lost major subscriber base to DD Free Dish.**
- h. This incentivizes customer switching thereby putting revenue pressure on DTH operators who have no other option but to charge subscribers. **There's OTT at the top of the pyramid, and there's DD Free Dish at the bottom. In the middle, private DTH services are getting squeezed.**
- i. This entirely unequal, discriminatory situation has created several regulatory loopholes/lacunae that are easily exploited by such unregulated players. While on one hand these players are benefiting from these regulatory gaps as they don't fall under the ambit of the TRAI, on the other hand it has brought the fully regulated DTH industry on the verge of almost collapse. The DTH operators, even after 12-15 years, are still operating under a negative net worth.
- j. This clearly shows that DTH industry is operating in an intensely competitive environment with perfect substitutable players in the market and thus, the industry should be made free from the highly regulated regime or alternatively, all the service providers viz; OTT and Free Dish rendering similar services like DTH should come into purview of the regulatory regime.

Current Regulatory provisions creating disparity in a technology-neutral environment:

- a. **Violation of "Must Provide" Principle:** TRAI introduced the principle of must provide to ensure broadcasters provide content to all distribution platforms on a non-discriminatory basis. However, it becomes inapplicable in cases where the same broadcast content (as shown on registered distribution platforms) is being carried over broadband as a medium.
- b. **Violation of MIB Downlinking Policy:** As per MIB's Downlinking Policy, the broadcaster is under an obligation to provide services only through registered DPO's (such as DTH providers, etc.). By providing broadcast content to unregistered digital distribution platforms, the broadcasters are violating the Downlinking Policy which needs to be addressed by MIB and TRAI.
- c. **Violation of MIB Cross Holding Restriction:** MIB does not permit a DTH licensee to allow broadcasting and/or cable network companies to collectively hold/own more than 20% of the total paid up equity in its company at any time during the license period –or vice versa. However, no such restriction exists for other platforms. Some stakeholders have unfettered ownership and control of all parts of broadband and broadcasting value chain including content and carriage, which creates monopolies. These anomalies lead to risks such as exclusionary and discriminatory impact for subscribers who may not be able to access same broadcast content on their choice of delivery medium.

Therefore, to cope with the competitive constraint from unregulated platforms, there is a pressing need to bring about 'Regulatory parity' among all delivery platform operators in the National Broadcast Policy.

The policy should amend the current regulatory framework to ensure any platform which offers similar content as offered by the regulated distribution platforms, should equally be brought under a similar regulatory regime - irrespective of technology. There should be no blocking of access/content by any one player in the value chain, which will ensure transparency and a level playing field. Regulatory arbitrage should not allow an entity to cause restrictions on the availability of content on other distribution platforms; or control pricing of the content to discriminate against other Distribution platforms.

Keeping the above in view, we propose: Guiding Principles for National Broadcasting Policy Formulation

We would like to highlight key principles that must be kept in mind while drafting the policy.

1. The NBP must create a non-discriminatory, level playing field for broadcasting sector's overall growth.

The regulatory framework should not privilege any one business model over another and ensure regulations do not create barriers to the emergence of more efficient business models. The framework should enable the service providers to meet customer expectations rather than acting as a hindrance that doesn't allow the country to benefit from technological developments.

Evolution of the broadcast medium requires a unified approach to regulations in the national broadcast policy to ensure that regulations remain relevant, consistent, and effective across all broadcasting mediums, including cable, satellite, and internet-based platforms, creating a level playing field. This approach promotes fairness, competition, consumer protection, and the advancement of national policy goals in a rapidly changing media landscape.

2. The NBP must acknowledge 'Convergence' of technology and services:

With the proliferation of high-speed telecommunications and broadband networks in India, there is a clear fundamental shift that has taken place in content broadcast. Convergence has taken place over the entire value chain – from underlying technology to service delivery to the end-user.

- a. Several different technologies deliver the same customer experience.**
- b. Content consumption is similar across all devices.**

However, the present laws are not adequate to deal with the convergence of the carriage of broadcasting services and telecommunication services as they are not able to account for and reflect the changed market reality. This is also well noted by the Authority itself.

The NBP must ensure that broadcasting regulations remain relevant and responsive to the dynamic media environment, benefitting both broadcasters and consumers. **As the broadcasting ecosystem**

continues to evolve rapidly, it becomes imperative for the NBP to take lead and acknowledge convergence in broadcast regulations, and ensure regulatory framework includes all modes of delivery of broadcast content across all platforms - at same price – irrespective of technology.

It will provide regulatory clarity, by defining the responsibilities of various stakeholders and ensuring that they operate within a consistent and equitable regulatory framework. Upcoming laws in the form of the Indian Telecommunication Bill, the Digital India Bill, and the Broadcasting Services Bill will likely acknowledge this convergence as well.

3. The NBP should focus on not creating market monopolies.

Cross holding restrictions in broadcasters and distribution platforms are essential to promote healthy competition, diversity of voices, and ensures that no single entity has excessive control over what content is available to consumers. Vertical integration between content and distribution platforms ultimately adversely impacts the plurality of content for consumers, increases the possibility of exclusive content deals, discriminatory distribution & arbitrary pricing for the same content and increases entry barriers for the competitors. Today restrictions with respect to vertical integration ('cross holding' restrictions) have been imposed only on DTH operators. MIB does not permit a DTH licensee to allow broadcasting and/or cable network companies to collectively hold/own more than 20% of the total paid up equity in its company at any time during the license period –or vice versa. However, no such restriction exists for other platforms.

The NBP should ensure cross holding restrictions are introduced in broadcasting regulations irrespective of the underlying technology employed rather than imposing it on just on one part of the distribution industry. This will ensure that all players, irrespective of technology, operate in a level playing field.

4. The NBP should focus on financial sustainability of the sector.

Financial sustainability should be a crucial component of a national broadcast policy. Today viability and financial health of DTH Operators is a serious concern, wherein admittedly, it is losing subscribers as well as revenue. In this context ensuring financial sustainability of the sector, through statutory, licensing, and regulatory framework is critical for resolving the issues faced by the DTH sector at present which, if remain unaddressed, will drive the industry to extinction.

Financial sustainability ensures the ability to provide quality services, maintain technological advancements, and deliver content to consumers efficiently. **This would involve measures to support diverse revenue streams, allowing innovative business models, and having an enabling regulatory framework that prevent market concentration that could undermine sustainability.**

5. The NBP must facilitate the Ease of Doing Business:

To fuel the next phase of growth in the broadcasting sector, we recommend that the **NBP should focus on regulatory forbearance and simplification of regulatory framework.**

Forbearance is a key foundational principle in regulation. ‘Regulatory forbearance’ is not the absence of any regulation, but an evidence-driven approach. It refers to the regulator’s decision to forgo direct intervention if the operation of market forces can achieve desired outcomes and there is no evidence of market failure.

To promote growth in this sector, it is essential that Regulators follow the same light touch regime for the broadcasting sector as was applied in the Telecom sector, thereby leading to tremendous success and growth of that sector. The broadcasting segment will also witness beneficial outcomes if the TRAI opts for forbearance. It will enable orderly growth, reduce prices, improve quality of service, and will ultimately benefit the consumer.

Similarly, policy regime should focus on enabling efficiency in operations. For example, NBP **must enable the use of BSS band on private satellites in the DTH sector**. The BSS band is an underutilized resource in India that can be used to expand DTH service across India. Allowing Indian service providers to access the BSS band on both domestic and foreign will enable them to expand their service offerings for the benefit of the Indian people.

6. The NBP should outline policy principles and avoid prescriptive measures:

We recommend that the NBP should be a high-level policy document, which sets out principles and that regulators and other authorities can later use to develop rules and guidelines to meet their objectives within the NBP goal-framework. This is particularly important as the broadcasting sector involves diverse stakeholders operating in a rapidly changing technological environment.

For instance, current Regulatory framework was introduced to bring ‘adequate & effective choice to the subscriber at affordable rates’. However, it had the impact of regulating every miniscule aspect of the broadcasting industry. There is an urgent and immediate need to revamp the whole regulatory framework. The DTH industry is operating in a highly complex and unsustainable environment and, therefore, the Authority should allow the market forces to play.

Prescriptive measures or strategies will prevent the NBP from being a future-proof policy. It should prioritize policies that empower consumers with choices, control, and access to a wide range of content and services through various devices, while ensuring parity across different mediums.

7. The NBP should adopt a technology-neutral approach:

We recommend that NBP should not favor any specific technology or platform but rather accommodates the evolving landscape of broadcast and digital media. A technology-neutral policy will ensure a level playing field for all players in the broadcasting sector, regardless of the technology they use. This will promote healthy competition, preventing any one technology or platform from gaining an unfair advantage over another, because of regulatory arbitrage.

The fundamental principle and objective behind any regulatory framework should be to create a non-discriminatory, level playing field based competitive environment where all the players have equal opportunity to compete and grow, irrespective of underlying technology, thereby resulting in the sector’s overall growth.

8. The NBP must promote innovation:

The policy should also strike a balance between fostering innovation and safeguarding public interest, diversity, and healthy competition in the sector. The policy must allow for innovative business models like audience measurement, while ensuring responsible and ethical use of consumer data.

9. The NBP should incorporate Regulatory Impact Analysis (RIA)

RIA provides a structured and systematic approach to evaluating the potential impacts of proposed regulations. It helps regulatory authorities make informed decisions by assessing the likely consequences and benefits of regulatory changes. RIA promotes transparency in the regulatory process, by ensuring regulators document and communicate the rationale behind their decisions, including the evidence and analysis used to support regulatory changes. This transparency builds trust with stakeholders and the public. **Incorporating RIA into National Broadcast Policy underscores a commitment to effective, transparent, and well-informed policymaking.**

With the above background and submissions, please find next Airtel's detailed response to the questions raised in the consultation paper.

Q1. Stakeholders are requested to provide their comments on the possible structure and content for National Broadcasting Policy, clearly outlining the specifics along with the justification. The comments may explicitly include the following titles/heads:

Preamble

Vision

Mission

Objectives:

Goals

Strategies

The stakeholders are requested that against each suggested objective, possible goals and the strategies may be explicitly provided.

Airtel Response:

Kindly refer to our detailed submissions above. The formulation of the National Broadcasting Policy will set a tone for a planned development and growth of the Broadcasting sector. The possible structure for formulation of the Policy is as follows:

- a. Preamble:** The broadcasting sector holds a pivotal role in shaping the socio-cultural and political landscape of a nation. Recognizing the immense power and responsibility vested upon the broadcasting entities, it is imperative to establish a policy that ensures fair, transparent, and responsible broadcasting in the interest of the public.
- b. Vision:** To create an inclusive, transparent, technology-neutral, and responsible broadcasting ecosystem that promotes level playing field amongst all operators and ensures every citizen has access to unbiased, diverse, and high-quality content, with a view towards positioning the country as an unmatched, globally recognized, and relevant broadcasting hub.
- c. Mission:** To regulate, facilitate and nurture a broadcasting environment that empowers consumers with choices, control, and access to a wide range of content and services through various devices, while ensuring regulatory parity across different.
- d. Goals:**
 - Establish a robust regulatory framework that promotes business flexibility and free play of competitive market forces.
 - Establish a non-discriminatory, level playing field for broadcasting sector's overall growth.
 - Develop an enabling framework guided by principles of regulatory forbearance and light-touch intervention, to encourage sectoral investments.
 - Facilitate technological advancements in the broadcasting sector to accommodate the evolving landscape of broadcast and digital media.
 - Empower consumers with choices, control, and access to a wide range of content and services through various devices, while ensuring parity across different mediums.
 - Encourage investments in the sector and increase accessibility broadcasting services.
 - Promote content diversity, representing all ethnicities, languages, and cultures.

- Rationalization on and simplification of regulatory framework to promote better delivery of services and make the broadcasting industry sustainable.

Q2. Stakeholders may provide specific comments and suggestions for identifying objectives, goals and strategies for National Broadcasting Policy including the following aspects:

i. Public Service Broadcasting

- a) Requirement, Relevance and Review
- b) Support and Validation
- c) Content Priority
- d) Mandatory Sharing of television programmes
- e) Enhance global reach

ii. Policy and Regulation

- a) Satellite Broadcasting
- b) Terrestrial television Broadcasting
- c) Radio Broadcasting
- d) Print media
- e) Digital Media

iii. Promotion of Local Content

iv. Piracy and Content Security

v. Technology innovation & Standardization

vi. Convergence

vii. Specific Regulatory Authority for Broadcasting

viii. Robust grievance redressal mechanism

ix. Role of Broadcasting during Disaster

x. Audience Measurement System:

xi. Social Goals

xii. Environmental Responsibility

xiii. Animation, Visual Effects, Gaming and Comics (AVGC) segment

Airtel Response:

We have given detailed response on the current state of the broadcast sector and the key principles that should form the bedrock of National Broadcasting Policy in the preceding section. Responses provided in this section should be considered in conjunction with the preamble and the foundational principles outlined in the previous section.

Public Service Broadcasting:

The National Broadcasting Policy (NBP) should set the principle that Public Service Broadcasting remain focussed on dissemination of information related to national importance, promoting education, preserving cultural diversity etc., and do not transcend into the domain of commercial broadcasting. It needs to be ensured that the public service broadcasting serves the larger public interest and addresses the needs and aspirations of diverse communities.

In case Government or its units wish to provide broadcasting services that compete directly with the commercial broadcasting services provided by private entities, it should be subject to the same regulatory framework, as applicable to private entities.

This situation is unique to broadcasting. In telecom, BSNL, the state owned telecom operator competes with private telecom operators in a highly regulated sector, adhering to the same rules & licensing requirements and market competition rules. In contrast, DD Free Dish, a free-to-air DTH public service broadcaster under by Prasar Bharati, competes directly with private DTH operators but is subject to minimal regulatory restrictions. While both are government-backed initiatives, they function in distinct regulatory environments, resulting in a unique situation where one entity contends on an equal footing, while the other enjoys a relatively unfettered status within its sector.

DD Free Dish is providing DTH services similar to other DTH Operators. Registered DPOs have consistently raised concerns about the anomalies in the Licensing and Regulatory treatment, which has created an anti-competitive environment and a non-level playing field for DTH operators. The differential regulatory approach can be elaborated as under:

1. DD free dish operates on a business model of earning revenues from broadcasters instead of subscribers; thus, it cannot be termed as operating Public Broadcasting Services. that have attained commercial nature as these generate revenue from auction of TV channels slot to private commercial broadcasters.
2. DD Free Dish carries several channels that are pay channels for subscribers of other DPOs, whereas such channels are free for DD free Dish customers (approximately 22 channels).
3. There is no regulatory capping on carriage fee earned by DD Free Dish; it earns carriage fee as per the rate determined through the auction of its capacity. Other DPOs face stringent regulatory capping on carriage fee that they can charge from broadcasters (i.e., up to INR 4 lakhs per month per SD channel)
4. Even through DD FreeDish uses the same satellite distribution technology in the Ku-band frequency to provide its services as a DTH, it has not been treated at par with a DTH operator.

This regulatory imbalance has resulted in DTH subscribers continuously migrating to the network of DD Free Dish, thereby causing immense and irretrievable financial losses to private DPOs. It has lost major subscriber base to DD free Dish that now provides services to 45 million households, which roughly around 26% of the entire combined cable TV and DTH subscriber base and 41% of the total DTH base (pay and DD free Dish). Despite such market dominance of DD Free Dish, TRAI's regulatory framework has not been enforced on DD free Dish creating a non-level playing field in its favour (i.e. biggest DPO in the country).

National Broadcasting Policy should thus, take into account this aspect and provide clear guiding principles to deal with such issues to ensure that role of Public Broadcasting and Commercial Broadcasting services is clearly delineated to ensure overall growth of the sector and continued investments by investors. **NBP should ensure regulatory arbitrage should not determine the course of the technology and industry, and all the players have equal opportunity to compete at a level playing field.**

Convergence

Convergence has taken place over the entire value chain – from underlying technology to service delivery / carriage to end-user.

a. Several different technologies deliver the same customer experience.

Technological convergence has enabled seamless delivery of content to consumers across geographies and devices. High speed 4G and 5G networks of telecom operators are today delivering content at such high levels of speed that they are rivalling what only fixed broadband or cable networks or DTH used to be able to offer until recently.

b. Content consumption is similar across all devices.

The availability of high-speed broadband services, coupled with the launch of various digital platforms, has nullified the previous dependency on specific devices for watching specific content. Today, linear programming, live broadcasting and global and local content are being consumed across various screens (e.g., smartphone, PC, Smart TVs). This convergence driven by platforms / applications delivering broadcast content via broadband and other digital platforms, has dynamically altered the consumer behavior and content consumption patterns.

However, there is no parallel convergence on the governance side. This gives rise to the following issues:

- d. Violation of “Must Provide” Principle:** TRAI introduced the principle of must provide to ensure broadcasters provide content to all distribution platforms on a non-discriminatory basis. However, it becomes inapplicable in cases where the same broadcast content (as shown on registered distribution platforms) is being carried over broadband as a medium.
- e. Violation of MIB Downlinking Policy:** As per MIB’s Downlinking Policy, the broadcaster is under an obligation to provide services only through registered DPO’s (such as DTH providers, etc.). By providing broadcast content to unregistered digital distribution platforms, the broadcasters are violating the Downlinking Policy which needs to be addressed by MIB and TRAI.
- f. Violation of MIB Cross Holding Restriction:** MIB does not permit a DTH licensee to allow broadcasting and/or cable network companies to collectively hold/own more than 20% of the total paid up equity in its company at any time during the license period –or vice versa. However, no such restriction exists for other platforms. Some stakeholders have unfettered ownership and control of all parts of broadband and broadcasting value chain including content and carriage, which creates monopolies.
- g. There is a single ministry for content regulation but two ministries for access licensing:** Currently, content regulation falls under the MIB and should continue to do so to provide guidance and censorship on all mediums as necessary. However, the access technologies are distributed under two ministries viz. MIB (DTH/Cable) and DoT (wireless and wireline broadband). The recent step of the Government to bring the online platforms under MIB has made it clear that the content/censorship will be under one ministry irrespective of the platform and Airtel fully

supports that. It is, however, unusual that the access part will still continue to be governed by the MIB for one medium and DoT for another. This distribution of similar functions across multiple Ministries/Government Departments can lead to inconsistencies in policy approach, increased regulatory compliance costs to businesses, all of which ends up burdening the consumer eventually.

- h. **Licensing regime for DTH and telecom services is not unified:** Both telecom and DTH licences are granted under Section 4 of the Telegraph Act and for all satellite spectrum-related aspects. DTH operators deal only with the DoT. However, the DTH licence is governed by the MIB. The DoT has recently carried out certain amendments in the Unified License to exclude non-telecom revenue (including revenue from DTH) from the definition of AGR. However, no parallel change has been brought about in the DTH license regime by the MIB. As a result, a single legal entity cannot operate both in both telecom and DTH as it would end up paying double licence fee on its telecom revenue (both to DoT and MIB) due to divergent Licence fee regime. While TRAI in its recommendations on 'License Fee and Policy Matters of DTH Services' Reduce DTH license has recommended reduction in license fee from 8% to 3% immediately and then to zero by FY2026-27, the same has not attained finality. Due to this fact, players who want to offer the benefit of convergence (Telecom & DTH) to customers by leveraging synergies existing networks and technology are unable to seamlessly offer bundled services and benefits to the consumers.

National Broadcasting Policy should thus, ensure that consumers should not lose out on the synergistic benefits of convergence. NBP must ensure that broadcasting regulations remain relevant and responsive to the dynamic media environment, benefitting both broadcasters and consumers.

As the broadcasting ecosystem continues to evolve rapidly, it becomes imperative for the NBP to take lead and acknowledge convergence in broadcast regulations. It will provide regulatory clarity, by defining the responsibilities of various stakeholders and ensuring that they operate within a consistent and equitable regulatory framework.

Specific Regulatory Authority for Broadcasting

Creating a new Regulatory Authority for Broadcasting will require overhauling the legal, regulatory, licensing, administrative and institutional setup for both telecommunication and broadcasting services. This will disrupt the current equilibrium and could severely impact the growth of the broadcasting sectors.

However, that being said, it is important that TRAI acts as a converged regulator to recognize large scale changes in broadcasting sector. The need for a converged regulator was recognized in 2001 - this need is even more urgent today. In absence of a converged regulator, any attempts to regulate broadcasting sectors in coming times may result in bottlenecks, imperfect competition, disputes, and opportunities for arbitrage.

Regulatory regime must be such that the consumers and service providers should benefit from the technological advances. The regime should not create any hindrance in deployment of any technology for offering any type of services. At the same time due to technological developments no service providers should be able to disturb the level playing field by taking advantage of regulatory policies. To achieve these objectives, it is necessary that regulatory framework should be service neutral.

There is an urgent need for having a single regulator to deal with various issues arising out of convergence of technologies and services. If regulation do not keep pace with the strides in technology, the growth of telecom and broadcasting industries would suffer. A converged regulatory regime under TRAI will eliminate the possibility of litigation on the account that service providers are offering services which are not covered in their licensing regime.

NDCP 2018 also recognizes importance of convergence in the telecom and broadcast services by enabling infrastructure convergence of IT, telecom, and broadcasting, establishing a unified policy framework for broadcast and broadband technologies, and restructuring of legal, Incensing and regulatory frameworks for reaping the benefits of convergence.

Globally, number of 'converged' regulators has also grown over recent years. The Federal Communications Commission (FCC) in US regulates communications by radio, television, wire, satellite, and cable, and is also responsible for revising media regulations to account for new technologies and innovations. EU Member States are implementing a "future-proof" single regulatory framework for electronic communications. The Office of Communications (Ofcom) in the United Kingdom regulates TV and radio sectors, mobiles, postal services, airwaves and ensures the efficacy of communication and competitiveness in the media industry. In Malaysia, the issue of a converged regulator was addressed at an early date when the Communications and Multimedia Act 1998 established the Malaysian Communications and Multimedia Commission (MCMC) as the sole regulator of telecommunications, broadcasting, and computing industries. In 2008, the Korean government created the Korea Communications Commission (KCC) by consolidating the separate telecommunications regulator and broadcasting regulator.

Audience Measurement System:

There is paradigm shift in how media is being consumed in India. Consequently, there is also a global shift towards **hybrid audience measurement** spanning multiple channels (TV and Digital), and there is rapid technology innovation hastening this shift.

Government must incentivize innovation and allow hybrid audience measurement spanning across platforms, so that India emerges as the hub for global innovation in media audience measurement and indigenous technology development is fostered to promote self-reliance/Aatmanirbhar Bharat.

Any registered distribution platform by the virtue of his relationship with the customers should be allowed to gather insights and share it with interested stakeholders, without any restrictions.

National Broadcasting Policy should thus, include steps to encourage competition within the audience measurement space by removing any invisible barriers. Competition and multiple agencies for data collection and processing would bring in new technologies, new research methodologies, new methods in analysis, new and better ways to ensure better data quality.

- a. The regulatory framework prescribed must not privilege any one business model over another while ensuring the guidelines do not create barriers to the emergence of more efficient business models.
- b. The approach to measurement and audience measurement must also be an enabler for business innovation and competitiveness in how the TV advertising market is serviced, rather than act as an instrument for preserving status quo which privileges incumbents and disadvantages upstarts.
- c. It should recommend specific measures necessary for the audience measurement system to be robust, transparent, and accountable to all the stakeholders, and should only prescribe light touch regulation in the audience measurement system and the tools by which prices are determined in this market.
- d. Develop model governance standards / voluntary codes of practices for rating agencies, to ensure fairness, neutrality, and transparency.

Q3. Stakeholders may also suggest any other issues which should be considered for formulation of National Broadcasting Policy, along with detailed justification.

Airtel Response:

The topic in question has been comprehensively discussed in the preceding sections, where we have provided an in-depth analysis & recommendations on the fundamental principles that should constitute the cornerstone of the National Broadcasting Policy.
