

BIF Comments on TRAI Pre-Consultation Paper on Inputs for Formulation of "National Broadcasting Policy"

BIF wishes to thank the Telecom Regulatory Authority of India (TRAI) for this opportunity to provide feedback to the Pre-Consultation on inputs for formulation of National Broadcasting Policy (NBP). Broadcasting is the key constituent of India's dynamic Media & Entertainment (M&E) sector and holds immense potential for growth. There are [898](#) registered TV channels, and 386 private radio channels catering to [165 million](#) TV households and over [200 million](#) weekly radio listeners, but around 90 million households in India are yet to own a TV in India. The share of media and entertainment in overall gross domestic product (GDP) remains less than [0.9 percent](#) in India, which is lower than the global average of 3-4 percent, and the Gross Value Added (GVA) of copyright-relevant industries is [0.58](#) percent of the Indian GDP compared to the international average of 5.48 percent.

An enabling policy framework can provide the needed fillip for the broadcasting industry to capitalise on this potential and position India as a 'Vishwa Guru', or global leader in broadcasting, aligning with the Government's [vision](#) of a USD 5 trillion Indian economy. The NBP can be an important tool for this growth, by bringing forth policy principles to guide the development of the sector and increase its contributions to the Indian economy.

Before we outline our recommendations and suggestions for the NBP, we would like to take this opportunity to highlight our preliminary observations and certain principles that must be kept in mind while drafting the policy.

1. Obligations of the Public and Private Sector Must Be Clearly Separated

Public broadcasters play a hugely important role in democratic societies, particularly in disseminating news and information. Given India's size and diversity, the growth and development of Prasar Bharati (and its Doordashan and All India Radio services) is critical. India's public broadcaster has been a long-standing presence, operating to serve the objective of public duty. Given Prasar Bharati's strong entrenched position, it is imperative not to impose overlapping mandates on the private sector. The Pre-Consultation Paper, through some of its stated objectives and issues for consideration, appears to push public broadcaster-like obligations on the entire sector. Blurring these important and distinct roles will limit the ability of the private sector to cater to the creative needs of the broadcasting industry and viewing community, and the additional burden on the sector, if imposed, will curtail its ability to grow.

- a. For example, the objective of "ensuring affordable and universal reach of Broadcasting" is primarily one, that state capacity must address, in our humble opinion. The cost and connectivity of private sector broadcasting services will be driven by different factors including business growth and diverse consumer demands. Prioritizing 'universal access' through services and infrastructure is and should always be the mandate of the public broadcaster only.
- b. There are similar concerns with the objective of "Developing state-of-the-art R&D infrastructure for broadcasting sector in India", through the creation of a R&D fund and Centre for Excellence. While the private sector has led the way for many innovations, national-level infrastructural developments must be driven by the state.

- c. Additionally, the objective of "Capacity Building and Promoting Skill Development" for the sector is something that must be pursued in line with national employment and education policies, though as noted in the paper there is scope for partnerships between the government, industry and academia.

2. The NBP Must Acknowledge the Distinction Between Different Services

While the Background section of the paper states that the "broadcasting sector consists of television and radio services", the suggested framework includes digital media (both intermediaries and publishers of online curated content) and print media as "broadcasting services". As already discussed and articulated in several fora, we are of the considered opinion that Digital Intermediaries including Multimedia & Communication OTTs are already regulated by Meity under the relevant sections of the Information Technology Act, 2000 (IT Act, 2000). By bringing the same under MIB and the National Broadcasting Policy would lead to regulatory overlap and create needless challenges for the stakeholders.

Further, one of the issues for consideration is "enabling convergence of IT, telecom and broadcasting". However, it is important to note that these are distinct sectors with differentiated regulation and legislation – with good reason. While the IT & Telecom sectors are distinct with their own independent set of regulations under separate policies viz. IT Act and Indian Telegraph Act 1885, the NBP is an opportunity to create unique guidelines for the fast growing broadcasting sector, with a focus on creativity which is the founding pillar of broadcasting.

The bundling of different services like cable TV and broadband in offerings to consumers has led to the assumption that there is a convergence of technology. However, there are still technical distinctions between telecom, broadcasting, and digital services, including the infrastructure and mode of transmission, that justify their separate treatment. This is supported by a recent decision of the Telecom Disputes and Settlement Appellate Tribunal (TDSAT) which held that an OTT service is not a TV channel based on several distinctions between the two, and the separate laws that govern either service.¹

The Ministry of Electronics and Information Technology (MeitY) has administrative jurisdiction over both intermediaries and Online Curated Content Providers (OCCPs) and regulates them under the Information Technology Act, 2000 and the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021. Similarly, the Department of Telecommunications oversees regulation of the telecom sector through the Indian Telegraph Act, 1885 and other legislation.

Also it may be important to note that not only each of these policies are distinct for each sector but also each of these services are regulated by different line ministries viz. IT by Meity, Telecom by DoT and Broadcasting by MIB. Upcoming laws in the form of the Indian Telecommunication Bill, the Digital India Bill, and the Broadcasting Services Bill will likely draw these distinctions further. In our opinion, the NBP should acknowledge these distinctions rather than attempting to force-fit policy recommendations for three different types of services under the esoteric concept of convergence of IT, Telecom & Broadcasting services.

3. The NBP Should Outline Policy Principles and Avoid Prescriptive Measures

¹ All India Digital Cable Federation vs. Star India Pvt. Ltd., Broadcasting Petition/217/2023, available at: https://tdsat.gov.in/Delhi/services/daily_order_view.php?filing_no=NDM2MzM=

We recommend that the NBP should be a high-level policy framework, which lays down first principles which can be used later to develop rules and guidelines within the framework. This is particularly important as the broadcasting sector involves diverse stakeholders operating in a rapidly changing technological environment. Prescriptive measures or strategies will prevent the NBP from being a future-proof policy that can guide the broadcasting sector through the next techade and beyond.

For example, specific measures related to grievance redressal mechanisms need not be stipulated in the policy. The NBP should limit itself to outlining the objective behind including grievance redressal as part of a self-regulatory framework aligned to the Constitutional principles.

4. Goals Incidental to Broadcasting Should Be Excluded

Some of the objectives and issues in the Pre-Consultation Paper, while being worthwhile goals by themselves, are incidental to broadcasting. For example, the reasons for considering "Technology Innovation & Standardization" include meeting "national requirements including security needs and interoperability to avoid e-waste"; the section on "role of broadcasting during disaster" references disaster response and recovery; multiple broad social goals including workplace diversity and promoting certain types of content; and environmental responsibility. We recommend that these goals not be focus areas of a policy dedicated to broadcasting and the growth of the sector, but can be implemented as part of other larger government or industry initiatives.

With these preliminary observations, we recommend the following vision, objective, and goals for the NBP:

VISION

To establish a long-term vision for India's broadcasting industry with a view towards positioning the country as an unmatched, globally recognised and relevant broadcasting hub by 2047 in the *Amrit Kaal*, marking 100 years of India's independence.

The combined impact of the industry's direct and indirect economic contribution in the form of linkages to creation of a vibrant & innovative Indian economy, to live events, to brands and to sectors like tourism, as well as its palpable social contribution in terms of dissemination of information, knowledge, and entertainment, is already without parallel.

This Policy is envisioned as one with a strong sectoral growth-orientation, to reflect the need for broadcasting to truly break-out and achieve its global potential using our talent, our markets, the adoption of new and emerging technologies, as steppingstones. Combined with potent market forces and calibrated and agile but ex-post regulation, Indian broadcasting is unstoppable.

MISSION

This policy intends to:

- Create a vibrant and resilient broadcasting sector anchored by an enabling ecosystem for content creation, that can meet the Indian citizen's diverse content preferences and receive news, reliable information, and high-quality entertainment in a variety of languages;
- Position India as a global hub for content production, export Indian content to the world, promote India as an optimal location for content creation, and develop technical

capabilities in emerging technology areas like Animation and Visual Effects to meet global requirements for skilled labour;

- Develop a globally competitive and growth-oriented broadcasting sector with enhanced ease of doing business, robust state-of-the-art infrastructure, seamless market entry, world-class distribution technology, enhanced content security, and a cooperative and collaborative ecosystem.

OBJECTIVE

The Policy seeks to double the broadcasting sector's contribution to the Indian economy by 2047 in terms of revenue (as a share of GDP), employment, and export value as a share of total exports. The following sections briefly outline desired outcomes and strategies to achieve these growth-oriented objectives:

Goal 1: Measuring the Broadcasting Sector's Contribution to the Indian Economy

(Rationale: This is the first time that a policy is addressing the broadcasting sector independently and there is a need for government to set concrete targets as it has done for the IT sector. While there are estimates on TV and radio content services, we do not have the economic contribution of infrastructure and distribution service providers.)

Strategies:

- 1) Commission economic research to estimate the sector's current and potential contribution to the GDP;
- 2) Quantify intangible contributions of broadcasting to the information and knowledge economy via qualitative methods;
- 3) Establish future targets for TV and radio, based on current estimates, in consultation with industry stakeholders and experts.

Goal 2: Increasing the Size and Scope of the Broadcasting Value Chain via Investment Promotion

(Rationale: The need for this policy should be firmly situated in the context of the need for a favourable investment environment, since market-driven growth is the most potent means to achieving the goals stated in the preamble. Moreover, an investment-driven policy is likely to be the least disruptive in terms of subsequent legal-regulatory obligations and is also the need of the hour. In many ways, a similar ethos is visible in the National Policy on Software Products, 2019.)

Strategies:

- 1) Create an investor toolkit in which broadcasting supply chains are mapped along with relevant rules and regulations;
- 2) Develop an enabling framework guided by principles of regulatory forbearance and light-touch intervention, to encourage sectoral investments;
- 3) Ensure policy and regulatory stability through management of market expectations and transparent public consultations;
- 4) Establish a liaison cell within the Ministry to handhold investors in broadcasting beyond a predefined threshold;
- 5) Review sectoral investment laws and thresholds in order to level the playing field for investing in the Indian market;
- 6) Review public consultation and inter-ministerial coordination guidelines / practices in keeping with global best-practices and fostering greater transparency;

- 7) Commission market studies to identify potential barriers to market entry and review regulatory effectiveness.

Goal 3: Building Sector-Specific Institutional Capacity to Address Existing and Emerging Concerns

(Rationale: Institutional capacity to focus on differentiated concerns faced by content services and distribution networks is a must to engender agile and efficacious sectoral regulation. The demand for a specialised approach to broadcasting regulation was highlighted several times in the past-both by Government's own committees as well as by trade associations, but somehow they have not been implemented. A broadcasting sector regulator should have certain expertise, industry-specific understanding and objectives)

Strategies:

- 1) Adopt a holistic view on sectoral regulation and develop institutional capacity to address business-to-business and business-to-consumer concerns separately;
- 2) Appoint members to the regulatory body with knowledge of different parts of the intellectual property and broadcasting value chain – from content creation up until delivery to the end consumer – to ensure deeper regulatory understanding;
- 3) Develop specialised capacity to address concerns in content services with a focus on generating value through content production and exports;
- 4) Develop specialised capacity to address concerns in distribution networks with a focus on deepening access and providing high standards of QoS to consumers;
- 5) Ensure separate principles and treatment of content regulation and carriage regulation;
- 6) Review the administrative jurisdiction of TV and radio regulation and harmonize sectoral regulation to avoid multiplicity and parallel regulatory regimes;
- 7) Promote growth potential of new technologies through light-touch regulation;
- 8) Align and simplify regulatory objectives to promote efficiencies and ensure competitiveness in the sector.

Goal 4: Easing the Business Environment with a Focus on Agile and Light-Touch Regulation

(Rationale: EODB needs naturally follow from the need to double the footprint of broadcasting in value terms. However, our goal should also be to ensure that this is not an incremental easing, as has been the case many times in the past. Therefore, the pace and pattern of EODB reforms must match against the growth targets established for each broadcasting medium.)

Strategies:

- 1) Simplify compliances across all relevant sectoral regulations and transition to light-touch licensing frameworks and automatic authorizations wherever possible to create an enabling framework which supports creative freedom and supports content creation;
- 2) Streamline clearances under the 'Broadcast Seva' portal, with focus on automating and harmonising interdepartmental and inter- ministerial processes under a single window;
- 3) Specify timelines for approval of permissions or authorisations at each stage of an application submitted through the Broadcast Seva Portal;
- 4) Rationalise payments for licence applications and renewals including Bank Guarantees, Earnest Money Deposits, Licence Fees, and Processing Fees to reduce entry barriers in TV and radio broadcasting;
- 5) Coordinate with the WPC for improving spectrum management practices in the broadcasting sector with a focus on rationalising pricing of spectrum and charges paid to the WPC;

- 6) Review all pricing and bundling restrictions on broadcast content, to foster a market-driven broadcast ecosystem and simultaneously strengthen oversight and enforcement of unfair trade practices;
- 7) Provide statutory recognition to content standards applicable to content services and guidelines administered by self-regulation bodies for TV in keeping with Indian constitutional principles;
- 8) Revisit policy restrictions on genre-specific content restrictions on radio on the basis of consumer demand and national security considerations;

Goal 5: Fostering the Growth of State-of-the-Art Broadcasting Infrastructure across All Relevant Supply Chains

(Rationale: The policy should help crowd-in infra investment, enable upgradation of tech and efficient utilisation of existing infra, unleash public-private partnerships, and provide a fillip to Make in India)

Strategies

- 1) Provide infrastructure status to broadcasting distribution platforms and services to accelerate infrastructural convergence in consonance with the NDCP 2018;
- 2) Explore production linked incentives for manufacturing of high-value broadcasting equipment in consonance with the goals of the National Policy on Electronics;
- 3) Identify underpenetrated areas to expand connectivity and access to broadcast channels, via fiscal support through mechanisms such as the Universal Service Obligation Fund which is technology neutral;
- 4) Explore Swiss Challenges to encourage the deployment of state-of-the-art and cost-effective digital transmission technologies to promote coverage in rural and remote areas;
- 5) Create an enabling framework for infrastructure-sharing among DPOs at the last-mile and between broadband and broadcast operators, and provide open access to last-mile cable infrastructure to enhance broadband connectivity via cable infrastructure in line with the National Digital Communications Policy;
- 6) Facilitate Right of Way clearances for both overground and underground infrastructure, for the propagation of next-generation technologies such as 6G and IOT and as envisaged in the NDCP 2018;
- 7) Engage with research institutions to explore emerging broadcast technology and their use-cases, and encourage research on technologies for better network management and quality of service;
- 8) Ensure availability of and administer spectrum for satellite and other space-based communication services that help transmit broadcasts in a manner that reduces market-entry barriers, encourages efficient resource utilisation, and enhances consumer access to content;
- 9) Assess future bandwidth requirements in consultation with broadcasting sector stakeholder, in order to ensure orderly spectrum management;
- 10) Establish Centres of Entrepreneurship (COEs) and technology incubators focusing on AVGC related technology at Software Technology Parks of India (STPI);
- 11) Enable sandbox testing of emerging broadcast technologies;

Goal 6: Making India the Content Hub for the World

(Rationale: Smaller countries like South Korea have succeeded in propagating their broadcasting industries, talent, and soft power across the world. While India has designated AV services as a Champion Sector for Export of Services, there is large untapped scope for state-supported growth

via incentives, regulatory forbearance and better design, enforcement and upgradation of IP regimes etc)

Strategies

- 1) Explore the prospects of setting up content clusters or content export zones through which fiscal and infrastructural benefits can be passed on to the creative economy;
- 2) Offer tax subsidies and other incentives to regional, national, and foreign content producers for local production in India;
- 3) Position tourist spots and locations as ideal locations for production and create linkages between state-level tourism and film policies;
- 4) Work with state governments to create effective single-window processes for clearance of production related permissions and incentives for content production;
- 5) Expand the scope of bilateral agreements with foreign countries to facilitate co-production agreements for production and film festivals;
- 6) Set up a dedicated National Centre of Excellence for AVGC-XR to generate employment, IP, and enhance the potential of AVGC-XR;
- 7) Review co-production treaties with other countries and other film production incentives to include AVGC-XR production;
- 8) Undertake initiatives for combating piracy and provide broadcast-specific deterrent measures in the reforms to the Cable Television Networks (Regulation) Act, 1995;
- 9) Maintain an "Infringing Websites and Mobile Applications list for administrative takedown and enforcement action against violation of copyright;
- 10) Support the review and updating process of the National IPR Policy, particularly with a view to identify modernisation requirements for the IP regime to keep pace with technological changes;
- 11) Support research on technological standards for encryption and reliable communication in collaboration with the BIS and other relevant standard-setting bodies;
- 12) Develop model enforcement codes / standard operating procedures to address piracy risks across different broadcast platforms and services, and disseminate to law enforcement agencies;

Goal 7: Encouraging Robust Audience Measurement towards Greater Transparency and Hygiene in TV and Radio Broadcasting

- 1) Establish a process for accrediting or empanelling rating agencies for audience measurement;
- 2) Develop model governance standards / voluntary codes of practices for rating agencies, to ensure fairness, neutrality and transparency;
- 3) Prescribe standards for publishing data to ensure it is made available to all value chain stakeholders in a transparent manner and create a mechanism for auditing compliance;
- 4) Establish a consent-based framework in sample size selection with full disclosure of purpose, duration of storage and cross-border data flow; guided by standards in the Digital Personal Data Protection Act;

Goal 8: Strengthening Grievance Redressal & Consumer Feedback Loops

(Strategy: Service providers must improve QOS in line with what consumers have come to expect so that TV can continue to compete with new mediums on a solid footing. Greater accountability to consumers can also help ensure sustainability and equity in revenue share between content and carriage operators.)

Strategies

- 1) Explore avenues for enhancing Quality of Experience (QoE) for audience/viewers in consultation with a diverse spectrum of stakeholders from industry and civil society, including through data from consumer surveys and other feedback loops;
- 2) Engender transparency and accountability in co-regulatory mechanisms for content;
- 3) Establish state and district level cells in collaboration with consumer groups to ensure compliance with relevant Quality of Service (QoS) regulations;
- 4) Conduct consumer awareness programs and highlight QoS regulations, grievance redressal processes, and consultation mechanisms;
- 5) Review existing levels of access to and discoverability of broadcast content on different broadcast distribution platforms to assess the prominence given to consumer choice;

Goal 9: Reinvigorating the Public Broadcaster and Public Interest Programming

(Rationale: There is a need to stem the propensity of public authorities to pin public interest obligations on private entities. This can be achieved, in part, by strengthening the capacities and capabilities of the public broadcaster -- Prasar Bharati.)

Strategies

- 1) Enable Doordarshan and All India Radio (AIR) to enhance and expand public interest programming in regional languages and across new mediums;
- 2) Bolster content production on themes of national importance listed in Section 12 of the Prasar Bharati Act and disseminate through TV and radio;
- 3) Establish a standard operating protocol for production and dissemination of content during natural disaster emergencies;
- 4) Explore more public-private partnerships and enable new modes of market-based partnership for content sourcing and creation on themes of national importance and engender diversity of views;
- 5) Further decentralise content production by the public broadcaster to develop engaging programmes in regional languages for local audiences, and review regional content creation performance regularly;
- 6) Strengthen transmission and reception infrastructure at the border and remote areas;
- 7) Audit and assess the scope for utilizing unused and underused spectrum;
- 8) Explore the prospects of new monetisation models including via content development funds, subscription fees for niche programming and other such methods, via a high-level committee;
- 9) Create a Standard Operating Procedure for commissioning and acquiring content to engender greater certainty in commercial processes and give primacy to intellectual property of creators;
- 10) Continue to expand international outreach through agreements with national broadcasters in other countries;
- 11) Enable CRS to source news and current affairs from AIR and translate and transmit in local languages and dialects;
- 12) Create a roadmap for expansion of CRS in collaboration with the National Disaster Management Authority (NDMA) and a standard operating protocol for use of CRS during emergency situations;
- 13) Create a roadmap for disaster resilience and environmental sustainability of terrestrial and satellite communications infrastructure used for public-sector broadcasting;

Goal 10: Reimagining the Role of the Private Sector in Broadcasting

(Rationale: While there is a need to pare down the public interest obligations on the private sector, there is a simultaneous need for the private sector to be driven towards stakeholder responsibility that follows from the immense and perhaps incomparable societal impact of the broadcast medium)

Strategies

- 1) Enable accessibility for persons with disabilities on all broadcast mediums, in consonance with available technologies, industry best-practices, and phased and proportionate obligations;
- 2) Collaborate and consult with industry stakeholders to foster activity-based regulation for new-age technologies / mediums to pre-empt risks and mitigate societal harm;
- 3) Strengthen transparency mechanisms like audits and voluntary reporting across the broadcasting value chain, to enhance consumer welfare and market competitiveness;
- 4) Enforce the provision of itemised bills for TV broadcasting, and enable digital payments partnerships across the broadcast value chain via public-private collaboration wherever possible;

Goal 11: Skill Development & Capacity Building in Keeping with Market Forces and New-Age Technological Needs

(Rationale: State supported skill development has faltered along the way from being industry agnostic to becoming oriented towards industries that only generate high volumes of employment. There is a need to bring attention and state capacities back to high-value sectors with high-growth potential, where volumetric demand may be lower but the need for skilled labour is considerably higher. This is also in keeping with public data/ trends that indicate an unsustainably level of unemployment of skilled professionals in the workforce.)

Strategies

- 1) Engage with relevant skill councils to continually encourage the addition and review of Qualification Packs (QPs) and National Occupational Standards (NOS), and aim to harmonise these with international standards in areas such as digital skilling in keeping with the New Delhi Declaration of the G20;
- 2) Establish upskilling programmes with reputed educational and vocational institutions and help establish National Centres for excellence in AV technologies and production techniques in such institutions;
- 3) Collaborate with industry to identify cutting-edge developments in areas such as Artificial Intelligence, Augmented Reality, Virtual Reality, Extended Reality, Metaverses, and other emerging technologies and explore means to accelerate adoption with various broadcasting segments;
- 4) Identify public institutes like the SRFTI and FTII and partner with private institutes to set up specialized courses for training professionals working in emerging areas in the TV, distribution, and radio industries.
