

December 16, 2020

**Sh. Anil Kumar Bhardwaj,
Advisor (B&CS),
Telecom Regulatory Authority of India,
Mahanagar Doorsanchar Bhawan,
Jawahar Lal Nehru Marg (Old Minto Road),
New Delhi 110002**

**Sub: Response of Dish TV India Limited to Consultation Paper dated 07.12.2020
on Ministry of Information and Broadcasting (MIB) back reference on
TRAI's Recommendations on Platform Services**

Dear Sir,

We hereby submit our response to the TRAI Consultation Paper dated 07.12.2020 on Ministry of Information and Broadcasting (MIB) back reference on TRAI's Recommendations dated 19.11.2014 on "Regulatory Framework for Platform Services" and MIB reference on TRAI's Recommendations on "Platform Services offered by DTH Operators" dated 13.11.2019.

Thanking you,

Yours truly,
For **Dish TV India Limited**



Ranjit Singh
Corporate Head - Secretarial, Legal and Regulatory

Enclosed: as above

We, Dish TV India Limited (Dish TV), have provided our elaborate responses on all the issues raised in both the earlier Consultation Papers i.e. the Consultation Paper on 'Regulatory framework for Platform Services' issued on 23.06.2014 and the Consultation Paper on 'Platform Services offered by DTH Operators' issued by TRAI on 28.08.2019.

Dish TV has always been advocating level playing field amongst all the operators and in our previous responses to various earlier consultation papers we have raised this issues stating therein that unless the licensing/regulatory regime for the all the similarly placed players are alike, the fair competition cannot be possible in the market. Parity and uniformity in any industry is the pre-condition for an enabling and conducive business environment and in the broadcasting industry, such uniformity and parity cannot be achieved unless the discrimination being meted out to DTH platforms through regulations and Government conditions are removed. We reiterate that unless uniformity in the business opportunity is provided, any and all attempts for uniformity in the nature of services would continue to be discriminatory for the DTH operators. As stated repeatedly in various responses and representations, the imposition of License Fee – exclusively on DTH platform, was and continues to be discriminatory on the DTH platforms. Such discrimination is not being corrected despite repeated representations. It is an undisputed fact that the present regime for the license fee is discriminatory against the DTH Operators and is designed to provide the leveraged position to Broadcasters, Cable Operator, HITS, IPTV, Teleport Operator and MSO etc. in the market place as they are not required to pay any annual license fee. On account of such additional burden, the DTH operators are discriminated and have to bear higher burden, compared to cable/HITS operators.

The DTH industry has been raising this issue from the time the industry has come into being. It is a matter of record that in the month of March 2008, the Ministry of Information and Broadcasting had taken a decision to fix the License Fee @ 6% of the

Gross Revenue which decision had the concurrence of the TRAI also. However, for reasons best known to the Government, the said decision is yet to be put into effect.

The TRAI and the MIB are well aware that the DTH has played a very critical role in making the Digitization dream of the Government of India a success in addition to providing a world class experience to the consumers. Despite this, the DTH industry has always been accorded a step motherly treatment. There is an urgent need to remove these anomalies and create a level playing field for the DTH operators and thus paving the way for a conducive business environment. Dish TV seeks the support of the TRAI in rationalization of the License Fee so that the DTH industry may be granted a level playing field which has all along been given step motherly treatment by the Government and the TRAI.

For the aforementioned reasons, it was indeed heartening to see the back reference of MIB acknowledging the needs for the same, though with the limited view. We therefore through this response once again reiterate our earlier representations and request the authority to issue all the issues creating disparity amongst various players in the markets and remove such discriminations.

In the above back drop, we provide our repose to the question asked in the present consultation as under:

(a) **Obligation for every LCO/MSO to be incorporated as a company for providing Platform Services (PS) channels:**

Dish TV response: Dish TV agrees with the opinion of MIB that not every MSO/LCO needs to be incorporated as a company, however at the same time, Dish TV also supports the idea of TRAI that while allowing the MSO/LCO to operating in the current fashion, transparency of ownership and assurance of content should be ensured. This would also ensure level playing field and parity amongst all the players as all the operators being Companies are already ensuring such practices.

(b) Maximum cap of 5% on MSO and 1% on LCO of the total permitted satellite channels being carried by them without any upper limit:

Dish TV response: We differ with the opinion of TRAI and reiterate that there should not be any limit on the number of Platform Services operated by a DPO. It may be stated that since a platform launches a Platform Services keeping in mind the requirements of the subscribers, there is no rationale for fixing any limit on the number of Platform Services. Such a decision is a commercial decision which should be left to the commercial wisdom of the DPO

(c) Security clearance by MSO/LCO to carry any PS channel:

Dish TV response: We believe that the security clearance should be mandated for all DPOs as it will only ensure level playing field for all the operators and necessary changes should be brought in the registration process of the LCOs. But if the same is not possible, then as suggested MIB, such procedure should be mandated at least for those who wants to run PS channel. This will ensure that only serious players are there in the market.

(d) Inclusion of MSO/LCO along with DTH wherever required in the TRAI's Recommendations on "Platform Services offered by DTH Operators:

Dish TV response: While responding the consultation paper of 2019, we had specifically highlighted that that said consultation papers should also include MSO/LCO to ensure a holistic exercise rather than limiting the same only to the DTH operators. It is thus good to see MIB suggesting the same and TRAI accepting the said suggestions and we agree with the same.

(e) Additional issue - Exclusivity of the PS Channels:

We take this opportunity to once again highlight that the recommendation given by TRAI in relation to the exclusivity of the content of PS channels should not be implemented. We wish to reiterate that the question asked by MIB in their letter

dated 02.07.2019 was not phrased by TRAI in last present consultation paper in its letter and spirit. While the question was related to specific instance of transmission of exclusive content by the DTH operators, the same was translated into making the entire PS as exclusive in nature.

Be that as it may, since the query was in respect of exclusivity of the content, we wish to once again submit that the contents for the platform services are generally sourced from independent aggregators or agglomerate in the business and it is not feasible to restrict their deals with producers of the content for a certain platform/operator. It is therefore suggested that TRAI may not mandate content/programme exclusivity. However if such content is curated in house, the DTH operators may be required to maintain the exclusivity of the same for a particular time period.

With the growth of digital media, content like movies, music and original content is readily available on the various OTT platforms and respective youtube channels. Hence exclusivity for PS content for every operator is not a justified ask, as content producers acquire content for linear and digital platforms and subsequently offering the same for one DTH operator alone is not viable.

What is further disappointing to note in this regard that where TRAI, with a view to restrict monopolistic practices of the broadcasters, incorporated the provision of 'Must Carry' in its earliest regulations and extended the same principle to 'Must Provide' in the recent regulations to restrict the DPOs from the same monopolistic practices, it is now proposing exclusivity of content which will only encourage such monopolistic practices amongst the DPOs. It is a well-known fact that most of the DPOs are sourcing their content from third party content providers for their platform services. Now if exclusivity is mandated, the cost of the content would not only get more or more, the same will also promote monopolistic practices by the DPOs to acquire any content for their exclusive platform and thereby depriving the subscribers of other platforms to view the same. This would surely

be restrictive for the competition and will have tremendous negative impact on the market.

The objective of PS is brand differentiation and to compete against the local content being showcased by MSOs/LCOs at their discretion. The content they air is not regulated by any existing act or law. Hence it is requested that TRAI should make fair recommendation considering all the implications of the same.

In view of the above while we agree with the suggestion given by MIB in its letter dated 02.07.2019 that **whenever** any exclusive content is provided by a DPO on its network, it has to make sure that the broadcaster/content provider does not share the same with any other DPO. However, if such programmes are not exclusive in nature, the content provider might share the same with other operators. This will also be in line with the definition of Platform Services which requires the DPO to ensure that its PS channels are not provided by the said DPO to any other person/subscribers and that there is not restriction on the part of the content providers to make the same available to any other DPO and doing the same would not violate any provision in this regard.
