

By Courier/ Speedpost/ Email

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Submission of Responses by GTPL Hathway Pvt. Ltd. to Telecom Regulatory Authority of India (“TRAI” / “Authority”) in response to the **Consultation Paper (No. 7/2014) on Regulatory Framework for Platform Services** (“Consultation Paper”) dated 23 June 2014

**Kind Attention: Mr. Agneshwar Sen,
Advisor (B&CS),
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Below mentioned are comments by GTPL Hathway P Ltd on the issues of consultation raised in the consultation paper.

1. Do you agree with the definition for platform services proposed in paragraph 1.6? If not, please suggest an alternative definition. Please elaborate your response with full justification.

“Platform services (PS) are programs transmitted by Distribution Platform Operators (DPOs) exclusively to their own subscribers and does not include Doordarshan channels and TV channels permitted under downlinking guidelines.”

The aforesaid, definition may be amended as follows:

“Platform services (PS) are programs transmitted by Distribution Platform Operators (DPOs) within a closed loop through cable and does not include any content through Satellite transmission.”

The regulation cannot be same for DTH and Cable as DTH reaches all India and even spills into Middle East. DTH is NOT different from Satellite channels in footprint and PS should not be allowed on dth. If at all, allowed, the regulation should be the same as applicable for Satellite channels (specifically w.r.t. FDI). PS should cover only cable transmitted content in a closed loop service. HITs is also cable, , from the point that the transmission is on the ground.

Accordingly, all the views given below are pertaining to only content transmitted on cable.

1. PS channels cannot transmit/ include

2.1.1. Any news and/or current affairs programs

We would like to start with posing a question as to whether a grant of license to a new News Magazine can be rejected merely on the ground that there are already many newspapers available in the market?

A restriction if imposed on the News and/or current affairs programs of Local Cable T.V networks would lead to a heinous violation of the Fundamental Right of freedom to speech and expression guaranteed under Article 19 of the constitution of India.

Further on the rationale which states that the programs are already available on registered T.V Channels, we would put our views as below. Local news and current information form a vital part of the contents of the programs aired on PS

channels in this genre. These programs play an important role to keep the viewer updated and informed about the events and happenings around them. The Registered News Channels do not provide focussed local information as they cover broader aspects of State, national and international events on priority.

News and current affairs covered by national channels cannot include local level news as national channels do not have the infrastructure and ability to reach the depth of Panchayat/ village/ ward level areas.

Further it is not financially viable for national channels to cover such local news as they do not carry any advertisement value to national advertisers and no revenue can be garnered from them. Such news, on the other hand the cost involved in covering such local level news is extremely high as compared to national news.

Regarding issue of coverage of sensitive matters it is being regulated on national news channels under the existing law. By bringing PS under the regulation, there is no difference between the level of responsibility of national news channel and a DPO, as a DPO is also covered under the license and obligations. Hence there is no need to differentiate or underestimate the responsibility level of a DPO in transmitting sensitive matters.

e.g. In Dahod district of Gujarat, if a child drowns in a river, that can never be covered by the National news channels but at the same time such news will be covered by the Local Channels of Dahod and may be Gujarat.

Similarly if there is Typhoon occurring in southern India, though it is national news, is of equal importance to the people of a small district like Dahod, and they would catch it on their regular local news channel rather than searching for national channels.

Therefore from the above examples we can note that local news as well as national news is of equal importance and therefore making a segregation between th

em will be against the interest of the public at large.

It can be noted that newspapers are circulated as local edition, state edition and general edition; so if print media can be allowed at the local level then it is imperative that the electronic media should also be allowed to continue to function at the granular level. The authority in its consultation paper has already acknowledged the fact that Platform services have been very effective and helpful in the times of natural calamities and other national crises; thus putting a ban on such forms of channels and programs will curb national interest in general.

It may be noted that in developed nations, governments use local channels to reach affected citizens in case of calamities or for emergency alerts.

Local Cable Networks, due to the moderate cost of production, play a vital role in fostering local and small businesses and sales promotions as the advertisement cost of a registered news channel is never within the reach of a local shopkeeper/ businessman, but they can afford to market their products/ service through a cable news network.

Programs like live sports and devotional events are not covered by registered news channels except in their news bulletins due to lack of time and high cost factor, but a cable network news channel can cover it at a reasonable and affordable cost. Not every sports event manages to sell the live coverage to satellite channels and it is essential that they get the opportunity, if local channels can provide the same.

National news channels are not prohibited from transmitting any local news which is aired on cable channels. Talking of domain, it is seen that some national news channel transmit more entertainment related information. Going by the same argument it is sufficient to keep only DD channels and there is no need for any other news channels as the same news is being covered on all channels.

2.1.2. Coverage of political events of any nature

Any bar imposed on covering any political event would infringe the freedom of press and journalism. Further if coverage of Political events are barred and only a few market players are allowed to cover such events, then the probability of editing and using the information to suit their own interest cannot be ruled out and that could become a national concern.

Registered News Channels function on a bigger platform and are prone to be influenced by political/business obligations and favors. However, it is impossible for Political heavy weights to reach local level and exercise influence. Therefore the local cable network should be allowed to cover the political events and affairs as they can cover in a more detailed and unbiased way as compared to a registered news channel.

The Local Cable T.V Networks also serve as a platform for even the not so big political parties and forums, to voice their opinions and put their stand as they are easily approachable.

2.1.3. Any program that is/ has been transmitted by any Doordarshan channels or TV channels permitted under uplinking/ downlinking guidelines, including serials and reality shows,

In relation to the program(s) transmitted by Doordarshan channels or TV channels permitted under uplinking/ downlinking guidelines, including serials and reality shows it is stated that local cable network put on air any such programs only after requisite permission/assignment is obtained from the Copyright Owner.

In fact encouraging to air DD programs on the local channels after acquiring required rights and permissions, will in turn benefit Doordarshan and help increase its popularity.

2.1.4. International, National and State level sport events/ tournament/ games like IPL, Ranji trophy, etc.

Sports event should be allowed to be covered or telecast on the local channels after obtaining proper content and broadcasting rights. Covering of such events is essential as they not only have high entertainment value but also carry a great educational and training value. They carry the core motivational factor for very young and budding talents of our country. There should not be any restriction except copy rights.

2. PS channels can transmit/ include

2.2.1 Movie/ Video on demand

2.2.2 Interactive games,

2.2.3 Coverage of local cultural events and festivals, traffic, weather, educational/ academic programs (such as coaching classes), information regarding examinations, results, admissions, career counseling, availability of employment opportunities, job placement.

2.2.4 Public announcements pertaining to civic amenities like electricity, water supply, natural calamities, health alerts etc. as provided by the local administration.

Comment(s)- It may be mentioned that natural calamities and other emergency alerts are being transmitted on local channels by government intervention even in developed countries. However, effectiveness of the alerts will depend on the popularity of the channel and the number of such channels. Transmission of the local news which is of keen interest to the locals on a daily basis is critical to ensure the popularity and effectiveness of such alerts.

2.2.5 Information pertaining to sporting events excluding live coverage.

2.2.6 Live coverage of sporting events of local nature i.e. sport events played by district level (or below) teams and where no broadcasting rights are required.

Comment(s):

Linear movie and music channels and Online e-commerce platform services on 1 way and 2 way cable networks should not be left out of the ambit of channels to be allowed to transmit as Platform Services. Also point 2.2.3 should be consolidated as, "any information which is relevant for local public can be covered on platform services", as Local channels very purpose and objective is to bring local level news to the public.

3. What should be periodicity of review to ensure that the PS is not trespassing into the domain of regular TV broadcasters?

Comment(s)The area of work of Platform Services as mentioned above is different from regular TV broadcasters, therefore PS doesn't trespass into the domain of regular TV broadcasters. Further defining a domain for PS would lead to gross violation of fundamental right to free speech guaranteed under article 19 1(a) of the Constitution of India.

It should also be noted that some of the regular T.V Broadcasters are also encroaching into the domain of local channels by deploying decoders for local advertisements specific to towns. They follow an agenda of cornering incremental revenue by taking away a part of the local advertisement pie. As part of this agenda, they are pushing to curb DPOs and monopolize the market.

4. Should it be mandatory for all DPOs to be registered as Companies under the Companies Act to be allowed to operate PS? If not, how to ensure uniform legal status for all DPOs?

Comment(s): The Legal Status should not be an impediment for ensuring the enforcement of Law, as in case of Proprietorship the liability is invoked against the Proprietor, in case of a Partnership Firm the Partners are jointly and severally liable. However for the sake of uniformity it would be appropriate that all the DPOs should be registered as Companies under the Companies Act.

5. **Views, if any, on FDI limits?**

FDI limit should be same as that is applicable to Cable TV.

6. **Should there be any minimum net-worth requirement for offering PS channels? If yes, then what should it be?**

Net worth requirement is taken care of in the DPO licence criteria.

7. **Do you agree that PS channels should also be subjected to same security clearances/ conditions, as applicable for private satellite TV channels?**

Comment(s): A security clearance is already done for the DPO license. No other additional clearance should be mandated.

8. **For the PS channels to be registered with MIB through an online process, what should be the period of validity of registration and annual fee per channel?**

Comment(s): Registration of all the DPOs from MIB may be made mandatory but only in those cases where the DPOs are telecasting News/Current Affair Programs. It would also be relevant that MIB should be informed 30 days prior, in case there is a change in the Program Type.

It is also agreed that the validity for initial registration can also be for 10 years.

The registration may be kept as per the guidelines applicable for Satellite T.V Channels. The annual fee may be reasonable and in any case not exceeding 50% of the fee applicable to Satellite channels as transmission is limited to the exclusive subscribers covering a small geographical area.

9. **What is your proposal for renewal of permission?**

Comment(s): Renewal of permission should be automatic except where the genre of channel has changed or there have been repeated violation of guidelines; in that case there should be a renewal process laid down.

10. **Should there be any limits in terms of geographical area for PS channels? If yes what should be these limits.**

Comment(s): CATV channels are not broadcast channels and are only available to their own subscribers, therefore, the restrictions on the geographical coverage for PS channels is not required.

However, it is seen that in the case of DTH, the footprints also fall outside India and due care should be given in formulating guidelines for DTH as it is detrimental for the nation's security anyone found violating this area restriction, shall be liable to face immediate termination of license.

11. **Should there be a limit on the number of PS channels which can be operated by a DPO? If yes, then what should be the limit?**

Comment(s): In this regard it is stated that there should not be any limit on the number of channels operated by the PS as there are no such restrictions imposed on Satellite channels. It should not be ignored that the origin and purpose of CATV was with local content on VCR. Re-transmission of Satellite channels are a subsequent extension of the services on cable. It is therefore incorrect to ignore the fundamentals and origin of cable TV Service. Especially in DAS imple

mentation the consumers need to benefit with more contents with local flavor.

12. **Do you have any comments on the following obligations/ restrictions on DPOs:**

12.1. Non-transferability of registration for PS without prior approval of MIB;

12.2. Prohibition from interconnecting with other distribution networks for re-transmission of PS i.e. cannot share or allow the re-transmission of the PS channel to another DPO; and

12.3. Compliance with the Programme & Advertisement Code and T RAI's Regulations pertaining to QoS and complaint redressal.

Comment(s): Bar may not be imposed over the interconnection with other distribution Networks for re-transmission provided it is on a similar DPO with necessary license. In a scenario where regulated content through satellite is reaching a large number of consumers, it is only fair and logical that any regulated content is allowed to reach more consumers if relevant and if there is a market pull.

Compliance with the Programme & Advertisement Code and TRAI's Regulations pertaining to QoS and complaint redressal should be necessary.

Lastly, permission from MIB may be made mandatory in case of transfer of registration of PS.

13. **What other obligations/ restrictions need to be imposed on DPOs for offering PS?**

Comment(s): Any restraint on the DPOs should stand the test of reasonable restriction as contemplated by the Constitution of India; otherwise they shall be

deemed to be in violation of the scheme laid down in the Constitution

14. **Should DPO be permitted to re-transmit already permitted and operational FM radio channels under suitable arrangement with FM operator? If yes, then should there be any restrictions including on the number of FM radio channels that may be re-transmitted by a DPO?**

Comment(s):

Once a DPO is allowed to re-transmit already permitted and operational FM radio channels under a suitable arrangement, we believe that there should not be any restrictions on the number of FM channels.

We firmly believe that the market forces should rule and determine the number of channels to be operated by a DPO. For instance, in a platform like YouTube, there is no restriction on the number of channels to be operated. The market forces & economic viability ultimately determine whether to restrict or expand this number. In the present scenario, Internet is already luring the customers away from the traditional platforms. By putting restrictions and shackling the DPOs, the quality of service could be hampered in the long run and could prove lethal for the industry **as customers would be driven away to Internet which is largely unregulated.**

15. **Please suggest the mechanism for monitoring of PS channel.**

Comment(s): In relation to programs relating to News/Current Affairs, DPOs can be mandated to keep a record of programs telecasted for a period of 30/60 days and to produce the same before any agency of the Government as and when required. It may be noted that local content has been and is being regularly monitored by local authorities like the police and District Magistrate which has extensive reach up to villages and ward level.

16. **Do you agree that similar penal provisions as imposed on TV**

Broadcasters for violation of the terms and conditions of their permissions may also be imposed on PS? If not, please suggest alternative provisions.

Comment(s):

Penal provisions may be imposed on PS. However, they should be specific to cable. For DTH penal provisions may be similar to satellite channels.

We hereby submit that DPOs should be given a proper notice and reasonable amount of time to respond to the violations. They should also be given opportunity to make their submissions to unbiased committee comprising also of important citizens of that area where the content of PS would have had undesired impact and not left to the authorities at large. Final decision should be based on the submission of the report filed by the committee and no action should be taken based on first information reports or complaint/s.

17. What amendments and additional terms & conditions are required in the existing registration/ guidelines/ permission/ license agreements w.r.t. DPOs for regulating the PS channels?

Comment(s): Rule 6(6) of the Cable Television Network Rules, 1994: “No cable operator shall carry or include in his cable service any television broadcast or channel, which has not been registered by the Central Government for being viewed within the territory of India...” may be amended to read as follows “No cable operator shall carry or include in his cable service any satellite based television broadcast or channel or programs from its own Platform Service pertaining to the News/Current affair category, which has not been registered by the Central Government for being viewed within the territory of India...”.

18. What should be the time limit that should be granted to DPOs for registration of the existing PS channels and bring them in conformity with the proposed regulatory framework once it is notified by MIB?

Comment(s): We believe that the DPOs should be mandated to apply for registration within 3 months of regulatory framework notification by MIB and another 6 months after grant of license for conformity.

19. Stakeholders may also provide their comments on any other issue relevant to the present consultation including any changes required in the existing regulatory framework.

We would like to propose that since PS are addressing the issues at local level, satellite broadcasters either national or regional level should not be permitted to localize advertisements using ad-insertion system.