

**Suggestion / View on the TRAI Consultation Paper on
“Head–end–In–The–Sky (HITS)” dated 24th July 2007
Presented by Hathway Cable & Datacom Private Limited**

4.53 Following issues for consultation: -

4.53.1 What should be the scope of the HITS operations? Whether the scope of the HITS operator should include both the models as stated under heading “scope of HITS operation” in paras 4.5 and 4.6?

Hathway: We are disagreeing with 4.6 models as proposed in consultation paper as every Service provider should provide end-to-end services / solution. Any HITS Operator shall necessary be either any MSO or Cable Operator as the case may be.

4.53.2 Whether HITS operations should be allowed in C-Band or in Ku band or in both?

Hathway: Though technically HITS can operate in both C Band and Ku Bands as the case may be.

Keeping Ku Band for DTH services will help distinguish between the two services namely DTH and Cable Distributions through HITS.

– HITS platform would be for redistribution of broadcast channels through Local Cable Operators [LCOs], whereas and no redistribution rights is envisaged under DTH. Current Multi Dwelling Units [MDU] under DTH is no different from HITS except for the intermediatery LCOs. Since HITS platform would redistributes channels to a larger subscriber base, unlike DTH, technically C Band would always be preferred over Ku Band as C Band is not prone to rain breakdowns as the recent monsoon has shown.

4.53.3 Whether a HITS operator should be restricted to offer services only to the cable operator? Alternatively, should HITS operator be allowed to serve the end customer also directly? If yes, then whether the restriction on DTH to service end customer only needs any review?

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Hathway: HITS service provider shall not be restricted to provide only to / through Local Cable Operators [LCOs] but shall be allowed to provide services directly.

The reason being that the cost of investing in HITS Platforms are similar to that of DTH Platform. If HITS is labeled as provider of services only through LCOs then the revenue to be shared with LCOs, unlike DTH, where the DTH Service provider retains 100% of the revenue.

While investment in DTH and HITS Platform are similar, net revenue differs.

Therefore it would not be justified for HITS provider to be provided only through LCOs alone. If such options were not provided then it would be futile to make investments in HITS model.

We are therefore strongly advocating that HITS Service Provider shall be allowed to provide services to end subscribers either through LCOs or directly as the case may be.

Consequent upon the views expressed hereinabove, the Government of India may consider to choose to review restriction on DTH license condition to end customer only, if the DTH Operators so wishes.

4.53.4 What should be the limit of Foreign Direct Investment (FDI) for HITS licenses? Should there be any restriction on the maximum limit on the composite figure of FDI and FII?

Hathway: Current FDI is capped in Cable Distribution at 49%; we therefore propose that as level playing the FDI for HITS operators be pegged at 49%. These limits could be reviewed at later stage once digitalization in cable distribution systems widen and deepen.

4.53.5 What should be the entry fee and the annual license fee for HITS?

Hathway:

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- Delivering channels through HITS platform involves additional heavy infrastructure costs like up-linking, transponder and trans-modulator for downlink etc., which will be incurred by HITS Operator.
- To promote digitalization, Hathway is subsidizing Set-Top-Boxes to the customers.
- Subscribers are not willing to pay any additional subscription fees despite providing additional 50 channels through the digital boxes. Hence no extra revenue is forthcoming for carrying more number of channels.
- HITS would be similar to the current business model of delivering the channels and is therefore subjected to the TRAI Tariff Regulations.
- HITS Operators will also be require to share revenues with its LCOs unlike in DTH.
- HITS Operators therefore cannot be able to charge any additional subscription fees, as there is no room left for such additional fees from the subscribers.
- If any additional entry fees and License fees as indicated is sought to be charge; there would be no incentive left for the service providers to move from current business model of providing services in analogue form to digital through HITS Platform as it would not make any business and economic sense.

We therefore strongly suggest that there should be no entry fees or annual license fees as the case may be.

4.53.6 Whether HITS operator should be allowed to uplink from outside India also?

Hathway: HITS Operators should be mandated to be uplinked from India like any other cable operator or DTH Service provider, transmitting currently.

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4.53.7 If yes, what are the safeguards needed for monitoring the system? What are the checks and balances required to be put in place to address the level playing field issue with the operators uplinking form India?

Hathway: Not applicable since we are advocating for up-linking of services only from India as indicated hereinabove.

4.53.8 Should any interconnection issues be addressed in licensing conditions?

Hathway: Definition of HITS operator under Clause 3 of the interconnect may be changed to include direct subscribers of the MSOs, if MSOs act as HITS operator and if the MSOs does have their direct end subscribers.

The broadcasters should provide “Must Provide Content Regulations” to HITS Operators as at present on Non-discriminatory terms in accordance with the TRAI Interconnection Regulations dated 10.12.2004.

4.53.9 Should spectrum charges be recommended to be done away with for HITS service provider?

There should not be any additional spectrum charges for the same reasons given in 4.53.5 hereinabove for Entry Fees and Annual Fees.

4.53.10 Should there be any cross holding restriction? If yes, please suggest the nature and quantum of restrictions.

Hathway: Broadcast Bill is under consideration and will address the issue of crossholding and the wisdom of Parliament will be supreme on the subject.

4.53.11 Should HITS operator be allowed to offer value added services?

Hathway: Yes, EPG, Nvod, radio channels, games, interactivity are all being provided by DTH players and MSOs in current addressable and digital mode. Restricting them in HITS by law will place the MSO/group of LCOs at a distinct disadvantage, hence the same

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conditions as per clause 10.1 of the DTH licence be made applicable for HITS.

4.53.12 Whether “must carry / must provide” conditions be imposed on HITS operation?

Hathway: There will be no difference between delivering broadcast channels under current analogue or digital / CAS addressable system vis-à-vis digital HITS platform which is an alternative delivery platform and hence the provisions of TRAI Interconnection Regulations dated 10.12.2004 for providing channels by the broadcaster under “Must Provide Regulations” shall continue as otherwise there will be mayhem like olden days of no regulations prior to TRAI becoming regulator. There shall not be any must carry condition.

4.53.13 Whether a stipulated networth of specified amount be made as an eligibility criteria to avoid any non-serious applicant?

Hathway: We do not advocate for any net-worth criteria, as economic forces will have control over it.