



## TRAI CONSULTATION PAPER

ON

## "ISSUES RELATED TO ADVERTISEMENTS ON TV CHANNELS

Dated 16<sup>th</sup> March 2012

RESPONSE OF

NEO SPORTS BROADCAST PRIVATE  
LIMITED

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We appreciate the opportunity given to NEO Sports Broadcast Pvt Ltd ("NEO") for submitting comments to the Consultation Paper on Advertisements on TV Channels, The views/ recommendations/ submissions made by us without prejudice to our legal rights and contentions with regard to jurisdiction and other legal issues.

**Preliminary:**

1. NEO has always advocated that Advertisements on TV Channels should be displayed in such a manner that they are distinguishable from the programme and are not interfering with the main programme. NEO follows the industry practice of the public Broadcaster i.e. Doordarshan
2. At the time of bidding for the procurement of rights of certain LIVE sporting events the Sports Broadcasters take into account advertisements as a source of generating revenues and the same is built in the bidding cost which today is at an all time high due to stiff competition amongst the Sports Broadcasters.
3. All the possible modes of revenue generation for the Sports Broadcasters are being closed as we have to share our Signals with Prasar Bharati under The Sports Broadcasting Signals (Mandatory Sharing With Prasar Bharati) Act, 2007 to share such sporting events of national importance with Prasar Bharati which broadcasts/retransmits the shared sports signals that leads to grave violation of intellectual property rights of the Broadcasters acquired at enormous costs thereby resulting in huge losses to the Broadcasters. Our signals are only meant to be shared with Prasar Bharati in their kendras on free-to-air terrestrial network but is freely available to cable operators and DTH operators thereby leading to extensive violation of intellectual property rights of Broadcasters. In such an event where a cable operator/DTH service provider can receive the satellite signals of sporting events for free from Prasar Bharati, there is no reason for such cable operators/DTH service providers to enter into a service contract with the sporting events rights holder i.e. the Broadcaster and pay the legitimate license/subscription fee and this, has a direct adverse impact on Broadcaster's affiliate revenue. We recommend the authority to



consider issuing direction to Prasar Bharati to encrypt the signals only at the time of the sporting events.

4. There is a price freeze on the rate of the Channels, thereby limiting the generation of our revenue and the broadcasters at the mercy of TRAI for any increase in the rate of the channel.

#### Reply to Consultation Issues:

i. The limits for the duration of the advertisements shall be regulated on a clock hour basis i.e. the prescribed limits shall be enforced on clock hour basis.

ii. No FTA channel shall carry advertisements exceeding 12 minutes in a clock hour. For pay channels, this limit shall be 6 minutes.

*NEO'S Views: It would be appropriate to bring to the Hon'ble Authority's attention that it had released recommendation on Issue related to Broadcasting and Distribution of TV Channels dated October 1, 2004 wherein it was rightfully observed that the market has a means of correcting "Overadvertising". It was further observed that for Sports Broadcasters, advertisements can only be inserted during the 'natural breaks like between the Overs' in a Cricket match or during lunch/tea time. In the said recommendation another point that was very laudable was that the Hon'ble Authority very wisely stated that it would not be correct to interfere with the business model of a Broadcaster as they keep changing their business model in response to the market conditions and it would be difficult to give regulatory guidance at the required speed to the Broadcasters. The Hon'ble Authority in its response dated February 22, 2011 in the matter of Utsarg before the TDSAT had categorically stated that "There should not be any regulation at present on advertisement on both FTA and pay channels, and since this was the stand adopted by the Hon'ble Authority a year back, it is quite surprising that within a year of its response filed in TDSAT, the Authority has come out with the Consultation paper wherein there is sea change in its standby putting meaningless restrictions on the broadcasters. Moreover, there is no rationale/ valid explanation given by the Authority in this context.*

*The subscription fees of the TV Channels has been regulated in order to give the consumer choice and good quality service at affordable prices. Regulation on the advertisement time and its corresponding affect on the revenues for broadcasters will hamper growth and competition in the broadcasting Industry.*



*An attempt to put in advertising code based on the predetermined future outcomes as a result of digitalization is extremely premature and very presumptuous. The impact of digitalization can be factored only after assessing the full impact of the digitalization roll out on a pan India basis and not before. Digitalization will any ways put to test many of the existing models to change/ adapt and broadcaster will require transition time to realign their businesses so that they don't run out of the market. Hence introducing multiple issues simultaneously that have complex impact on the business model because of its interwoven & interdependent relationship with other variables will create serious survival issues and complicate the matter seriously*

*Moreover, sports broadcasting industry in itself is a very unique category both in terms of the shelf life of its content and business model involved in the sports category. Even TDSAT has mentioned that it needs a special consideration and cannot be clubbed with other genres. Hence inferences based on gross level generalization will not apply to sports channel for advertising codes also as the Authority has failed to provide any data or relevant factor in this context.*

*Therefore, it will be best that the Authority refrains from micro-managing the business and instead encourages self regulation.*

**iii. The 12 minutes of advertisements will not be in more than 4 sessions in one hour. In other words, there will be continuous airing of the TV show for at least 12 minutes each. Not more than three advertisement breaks shall be allowed during telecast of a movie with the minimum gap of 30 minutes between consecutive advertisement breaks.**

*NEO'S Views:* *In the light of our comments on the above points it is irrelevant to give our views on this point.*

**iv. In case of sporting events being telecast live, the advertisements shall only be carried during the interruptions in the sporting action e.g. half time in football or hockey match, lunch/ drinks break in cricket matches, game/set change in case of lawn tennis etc.**

**v. There shall only be full screen advertisements. Part screen advertisements will not be permitted. Drop down advertisements will also not be permitted.**

*NEO'S Views:* *At the outset we would like to state that the bigger picture in this issue is as to 'Who decides the "breaks"? It is a very subjective issue and the concept/understanding of a break differs from technical/marketing and consumer*



point of view. Infact, it will also differ from individual to individual. In the case of Sports Broadcasters the concept of break needs to be carefully dealt with. Sports Broadcasters are extremely sensitive to its viewers since it realizes that the value of sports stems from showing the event live and any disruption will only impact its business by way of loss of viewership which in other words means "Loss of revenue". Any stoppages in sporting events should be viewed as valid breaks for advertising till the time there is no interruption of any kind on the LIVE action.

Sports model is a very unique model where many content by its very nature have extremely limited scope to fully monetize its value and hence the channel consciously purchase other properties that offer revenue opportunities (advertising/ subscription) to subsidize/ compensate for the losses that may have been incurred on other properties. Hence a straight jacketed application of the advertising rule will be completely prejudicial to the business model of sports. For example- Advertising opportunities in football, car racing and cricket cannot be governed by similar rules. In the light of the above, there is no need for a regulation that pre-determines when advertisements should be shown during LIVE events.

Sports business model in India has already been highly sub-optimized in the light of stringent rate regulation, mandatory sharing with public broadcaster, must offer clause, in the light of escalating prices of the content and the huge distortion it has brought in the business model of the sports broadcasters. Besides many sport content owners while giving the right to telecast also mandate to the broadcaster strict norms that govern the telecast quality and interruptions to ensure viewership experience

Now controlling even the only other revenue opportunity available to sports broadcasters by putting restriction of advertisement during lunch and drink breaks will mean certain death of this business category since they will have no scope left for them to decide on their business plans any more.

If we look at the examples of advertising restrictions internationally as mentioned in the consultation paper, it is evident that most restrictions apply to non sports channels since sports channels neither operates on the concept of fixed time prime band nor on the concept of weekend and weekdays etc. The Sports Broadcasters have a stringent guideline to adhere to by way of the Agreements that the sports broadcasters enter into with the sports federation from whom the right of telecast has been procured. The sports federation's main aim vide its terms of the Agreement on the one hand is to ensure that the viewers do not loose interest in the LIVE event and on the other hand it ensures that the Sports Broadcasters recover the exorbitant license fee paid by them by plugging in advertisements only during the time when no action is taking place and there is a valid break in the game.



vi. In so far as News and Current Affairs channels are concerned, they are allowed to run not more than two scrolls at the bottom of the screen and occupying not more than 10% of the screen space for carrying non-commercial scrolls, tickers etc.

*NEO'S Views: Not relevant to Sports Broadcasters*

vii. The audio level of the advertisements shall not be higher than the audio level of the programme.

*NEO's Views: The verbatim of Rule 7 (6) of the Cable Television Rules states : "The picture and the audible matter of advertisement shall not be excessively loud;". In the light of the above rule in play Authority should refrain from laying down further regulations.*

### **Conclusion**

It is submitted that the Authority revisits the present Consultation paper in the light of the above submission and ensures that excessive regulation is totally unwarranted and against the interest of the viewer and the broadcasters and therefore, needs to refrain from further regulating and instead, should focus on the implementation of the existing regulations. It is further submitted that the Authority ought to recognize Sports Broadcasters as a separate group at the time of issuing Consultation papers of this type since the business model of Sports Broadcasters differs from the broadcasters of other genres.

Thanking You,

Yours Faithfully,

**For NEO Sports Broadcast Private Limited**



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**Mukul Sharma**

**(C.S. and Associate Vice President- Legal & Regulatory Affairs)**