

TRAI CONSULTATION PAPER

No. 7/2014

ON

**“REGULATORY FRAMEWORK FOR
PLATFORM SERVICES”**

Dated 23rd June 2014

RESPONSE OF

**NEO SPORTS BROADCAST PRIVATE
LIMITED**

PREFACE

The present Consultation Paper covers the Platform Services that are being offered by Delivery Platform Operators on their television distribution platforms viz Cable, DTH, IPTV and HITS. The Consultation Paper suggests and invites views of the stakeholders on measure of regulation of Platform services.

Our understanding is that unless the content creation companies are provided a fair and easy opportunity to distribute their content only then this industry can add immense value. In the coming times we may see many new radical models that will come up which will only be availing the platform services as their principal form of business conduct who may or may not be a conventional broadcaster. Hence regulatory framework must be created keeping in mind these models where DPOs are supportive of such models. This can only be possible when Distribution Platform Operators (DPOs) would remain strictly a distribution platform operator even when it comes to PS and not take on or assume any role that in any form may be suggestive of any other role even remotely or they inadvertently assume role of content creator or broadcaster including purchasing of content

Hence, in light of the above we request that the relationship between DPOs and PS be accordingly defined.

Reply to Consultation Issues:

- 1. Do you agree with the following definition for Platform Services (PS)? If not, please suggest an alternative definition:**

“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.”

NEO'S Views: The Hon'ble Authority has given a conscientious definition of the term "Platform Services" and we completely agree with it.

- 2. Kindly provide comments on the following aspects related to programs to be permitted on PS channels:**

- 1. PS channels cannot transmit/ include**

- 2.1.1 Any news and/or current affairs programs,**

- 2.1.2 Coverage of political events of any nature,**

NEO'S Views: *We completely agree with the above cited restrictions.*

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,

NEO'S Views: *Distribution Platform Operator should be able to re-transmit programs including serials, sports, gaming, reality shows, movies etc. for which it has acquired rights from the IPR holder. However, such IPR cannot be exclusive to the PS of any specific DPO.*

Further, the DPO cannot own the IPR of any content on its own at any given time for showing on their PS since it will breach his role as neutral distributor. Hence he has to acquire content from 3rd parties only who specialize in such content. The sole exception is that the DPO can make the content wherein it relates to promotion of their platform services for the benefit of their subscribers

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

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

3. PS channels can transmit/ include

2.2.1 Movie/ Video on demand

NEO'S Views: *Distribution Platform Operator should be able to re-transmit the movies etc. after acquiring broadcasting rights from the IPR holder and does not hold exclusive rights for such content.*

2.2.2 Interactive games,

NEO'S Views: *We completely agree with above cited sanction given by Hon'ble Authority.*

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.

2.2.5 Information pertaining to sporting events excluding live coverage.

NEO'S Views: *We completely agree with above cited sanctions given by Hon'ble Authority.*

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.

NEO'S Views: *Distribution Platform Operators should not be permitted to transmit live sporting events of local nature unless they have procured third party broadcasting rights and permissions from the IPR holder to transmit the same.*

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

NEO'S Views: *We suggest quarterly monitoring to ensure that the PS is not trespassing into the domain of regular TV broadcasters. The review of content on PS should be done at par as being done for satellite channels in India. Since, the review is to be done at state and district levels therefore, we would suggest the Hon'ble Authority to chalk out a plan for reviewing the content transmitted by DPOs on their PS channels.*

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?

NEO'S Views: *Yes, it should be mandatory for all DPOs to be registered as Companies under the Companies Act to be allowed to operate Platform Services.*

5. Views, if any, on FDI limits?

NEO'S Views: *A distinction with regard to proposed FDI is to be crafted subject to extant guidelines which require lower thresholds for "news" and higher thresholds for "non-news".*

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

NEO'S Views : *Yes, there should minimum net worth requirement for offering PS channels. This would help in generating certain level of seriousness and quality in delivery of such services as well as content on PS channels. An area wise categorization*

would help in assessing minimum net-worth for PS services would ensure safety of interest of small scale DPOs as well.

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

NEO'S Views: Yes, we vehemently agree to the fact that PS channels should also be subjected to same security clearances/conditions, as applicable for private satellite channels. The reach of PS channels would be in remote and sensitive areas since many of these channels will be operated by MSOs/DTH operators having large subscriber base and such security clearances and MIB permissions are indispensable.

Further, this would enable to keep a check of any possible violation of content/program or advertisement codes.

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?

NEO'S Views: Since, the Platform Services will operate in an identical manner as any broadcaster's channel therefore, these channels should be registered with MIB. The online registration procedure would expedite and simplify the process however physical verification of information submitted by DPO should be made mandatory in order to avoid any discrepancy. This would help in keeping the DPOs with false intent at bay.

According to us, the registration validity and license fees should be identical to a broadcaster's channel uplink fees in case of DPOs which include MSO,DTH,IPTV and HITS operators who have pan India access. The period of validity of registration should be fixed at 5 years. The annual fee and registration fee should be charged as Rs 5 lakhs per channel and Rs 10 Lakhs per channel respectively.

However, the Hon'ble Authority should derive a registration and annual fee mechanism for small scale DPOs on cable platform which is fair and affordable.

9. What is your proposal for renewal of permission?

NEO'S Views: The renewal should be subject to timely payment of annual fee, compliance of mandatory provisions for prescribed content code and all other provisions which a broadcaster is required to oblige to for renewal of a channel license.

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

NEO'S Views: No, there should not be any limits in terms of geographical area for PS channels. Limits of such nature would be impractical for DTH,big MSOs, HITS and

IPTV operators since they have pan india access. Further, in case of small DPOs, the content offered on their Platform Services is local in nature and their programs may not be of much interest countrywide. The DPOs will be catering PS services to their subscribers as per the provisions stipulated in their respective licenses.

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?

NEO'S Views: *The DPOs including DTH and MSO operators would take an undue advantage in case no limit on the number of PS channels is created. They would make an ostensible excuse of bandwidth constraint at the time of carrying the channels of broadcasters since, due to the no limit on number of PS channels. This would further motivate the DPOs to extort carriage fee from the broadcasters at the pretence of low bandwidth.*

Further, no limit on such services would promote the potential broadcasters i.e. DPOs in avoiding to take MIB license and just place their content as PS channels.

Therefore, we suggest that not more than 4% of Platform capacity defined by number of operating channels or 10 channels whichever is lower should be the limit of PS channels. Moreover, irrespective of the fact whether the DPO is able to provide Platform Services for those many defined channels or not, once the number of PS channels has been defined by the DPO as PS, those channels will have to be shown as PS necessarily and cannot be reallocated to any broadcaster for channel retransmission purposes for a defined period ie atleast 1 year or else it may lead to possible abuse & hoarding

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 TRAI's Regulations pertaining to QoS and complaint redressal.

NEO'S Views: *We completely agree with the restrictions/obligations imposed/laid by the Hon'ble Authority on the functioning of DPOs*

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

NEO'S Views: We would suggest that a DPO should not be allowed to hold exclusive rights for any content i.e. Movies, Serials, Sports event. This is due to the fact that if a DPO buys exclusive rights for any above mentioned event/program then such channel, licensed by MIB should be treated as a Broadcaster's channel rather than a PS channel and must be subject to must provide and RIO arrangements.

Further, DPOs offering PS channels should strictly adhere to intellectual property laws in order to avoid their infringement.

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?

NEO'S Views: Yes, we agree that subject to suitable agreement with the FM operator, such channels should be permitted to be re-transmitted by DPOs.

However, the radio licenses are given for a limited geographical area and since, the transmission of PS channel by the DTH operator would provide pan india access therefore, transmission of FM channel would lead to licensing violation implications.

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

NEO'S Views: The mechanism for monitoring for PS channel cannot be same as it is being done for satellite channels since, in such a case monitoring needs to be done at district and state level or otherwise the entire exercise of formulation of regulatory framework would become fruitless. In order to make the monitoring effective establishment of public forums, constant watch on sensitive content on PS channels and a check on piracy and IPR infringement acts need to be done.

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.

NEO'S Views: Yes, we completely agree with the assertion made by the Hon'ble Authority in above cited view.

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?**

***NEO'S Views:** We suggest that the terms and conditions for DPOs for regulating the PS channels should be on the same lines of downlinking conditions as prescribed by MIB for satellite TV channels since, the registration/license for DPOs are mere permissions and don't lay regulatory parameters for retransmission of satellite channels via DTH,HITS,MSO and IPTV.*

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?**

***NEO'S Views:** The DPOs of the existing PS channels should be allowed a time limit of 3-6 months to comply with the proposed regulatory framework once it is notified by MIB.*