

## Comments

TRAI CP<sup>1</sup>PR<sup>2,3,4</sup>

### 1. Introduction:

1.1 The distribution of Subjects as specified in the Second Schedule to the **Government of India (Allocation of Business) Rules, 1961** as amended<sup>5,6,7</sup> to the Ministry of Information and Broadcasting (MIB) are hopefully depicted in the organisational chart of<sup>8</sup>.

2. The Acts:

2.1. Mentioned in Allocation of Business<sup>9</sup> are:

(a). Broadcast Monitoring and Administration of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 (25 of 1990).<sup>10</sup>

(b). Cable Television Networks (Regulation) Act, 1995 (7 of 1995).<sup>11</sup>

(c). Legislation under entry 60 of the Union List, viz., 'Sanctioning of Cinematograph films for exhibition'<sup>12</sup>

(d). Administration of the Cinematograph Act, 1952 (37 of 1952).<sup>13</sup>

(e). General conduct of Government relations with the Press excluding the administration of sections 95 and 96 of the Code of Criminal Procedure, 1973 (2 of 1974).<sup>14</sup>

(f). Administration of the Press and Registration of Books Act, 1867 (25 of 1867) relating to Newspapers.<sup>15</sup>

(g). Administration of the Press Council Act, 1978 (37 of 1978).<sup>16</sup>

2.2. Mentioned in<sup>17</sup> are:

(a) THE PRESS AND REGISTRATION OF BOOKS ACT, 1867<sup>18</sup>.

(b) THE CINEMATOGRAPH ACT, 1952<sup>19</sup>.

(c) THE PARLIAMENTARY PROCEEDINGS (PROTECTION OF PUBLICATION) ACT, 1977<sup>20</sup>.

(d) THE PRESS COUNCIL ACT, 1978.<sup>21</sup>

(e) THE PRASAR BHARATI (BROADCASTING CORPORATION OF INDIA) ACT, 1990<sup>22</sup>.

(f) THE CABLE TELEVISION NETWORKS (REGULATION) ACT, 1995<sup>23,24,25</sup>

(g) THE SPORTS BROADCASTING SIGNALS (MANDATORY SHARING WITH PRASAR BHARATI) ACT, 2007<sup>26</sup>.

3. 'MIB has requested TRAI to give its considered inputs under Section 11 of the TRAI Act, 1997 for formulation of the National Broadcasting Policy.'<sup>27</sup> and 'informed that they are in the process of formulating a National Broadcasting Policy.'<sup>28</sup>

4. In extant CP<sup>29</sup> '**CHAPTER 2 STRUCTURE OF POLICY FRAMEWORK**'

'2.1 In line with the existing National Digital Communications Policy – 2018'<sup>30</sup> has been proposed.

5. Regarding the Telecom Sector the extant CP has provided the evolution of 'policy statements' viz. –

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- (a) National Telecom Policy, 1994,
- (i) New Telecom Policy, 1999
- (ii) Broadband Policy, 2004
- (iii) National Telecom Policy, 2012

(iv) National Digital Communications Policy – 2018'.<sup>31</sup>

(b) & as a consequence 'Digital Communications Commission (Erstwhile Telecom Commission) came into existence'.<sup>32</sup>

6. The sectoral growths:

(a)2. As per the industry report<sup>1</sup>, Indian Media and Entertainment (M&E) sector grew 19.9% in 2022 to reach Rs. 2.1 trillion from Rs. 1.75 trillion in 2021 and is expected to reach Rs. 2.83 trillion in 2025 with a CAGR of 10%. Television is one of the largest and fastest growing segments of M&E sector. It represents around 35% of the total M&E revenue. Even though television remains the largest segment, digital media has seen

<sup>1</sup> FICCI EY Report (April 2023) titled "Windows of opportunity -India's media & entertainment sector – maximizing across segments"

phenomenal growth with a 27% growth in digital subscriptions in 2022. The potential of the new technologies in the sector can be inferred from the fact that in 2022, animation and VFX was the fastest growing sector with a staggering 29% growth.'<sup>33</sup>

(i) **Statistical Handbook on Media & Entertainment Sector 2022-23**<sup>34</sup>

(ii) TRAI Annual Report<sup>35</sup>.

7. Telecom Regulatory Authority of India Consultation Paper on Regulating Converged Digital Technologies and Services – Enabling Convergence of Carriage of Broadcasting and Telecommunication services New Delhi, India

30.01.2023<sup>36</sup> (a) Telecom Regulatory Authority of India Consultation Paper on Issues relating to Convergence and Competition in Broadcasting and Telecommunications New Delhi ..... January 2nd 2006<sup>37</sup>.

8. Government notifies<sup>38</sup> Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021<sup>39,40,41,42</sup>.

9. MINISTRY OF INFORMATION AND BROADCASTING has a DIGITAL MEDIA DIVISION<sup>43</sup>.

(a) Information Technology (Intermediary Guidelines and Digital Media Ethics Code), Rules, 2021 are given on MIB site<sup>42</sup>.

10. The issue of Convergence was considered important as early as 2006 by TRAI and accordingly the CP<sup>43</sup> on the subject was issued.

(a) In the said CP there is a reference<sup>44</sup> to an ITU publication<sup>45</sup> of vintage 2004.

(b) TRAI has visited the issue of convergence again through CP<sup>46</sup>.

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11. Notwithstanding any issues, if any, existing the extant Legislative Framework, Legal Framework & Regulatory<sup>47</sup> Framework, the various services noted in the extant CP have grown in leaps and bounds as per copious data provided in<sup>48,49,50</sup>.

12. TRAI convergence CP<sup>51</sup> has been briefly outlined three types of CONVERGENCE:

i. Device Convergence – Convergent devices share three primary attributes. Firstly, they can perform multiple functions to serve a blended purpose. Secondly, can collect and use data in various formats and implement machine learning techniques to deliver enhanced user experience. Thirdly, converged devices are connected to a network directly or are interconnected with other devices to offer universal access to users. Technological convergence includes devices and systems that interface with end users, and those devices are called "smart" devices, which often include IoT devices. For example, a user interacts with converged devices, such as a smart television (TV), to access the contents that are distributed over a network. A smart TV has combined the functions of a traditional TV, a computer, and several other devices that used to have one specific purpose. In addition to displaying over-the-air broadcast TV channels, smart TVs interface with users to surf the internet, view photos taken from smartphones and stored in the "cloud," display feeds from home security cameras connected to a network, play music, notify users of incoming calls and messages, and allow video teleconferencing.

ii. Service convergence – In the media and telecommunications business, it may mean the tendency for services to merge into one offering that combines the features of the original services. Convergence of services allows operators to offer bundles of services to the end-users. Converged services include at least two different types of services, for example, double-play, triple-play, quadruple play bundled services.

○ Double-play combines two of the following services: fixed-line telephone voice services, mobile telephone voice services, fixed television and radio services, mobile television and radio services, fixed-line broadband access and mobile broadband access services.

○ Triple-play bundles comprise three types of basic services (voice, TV and radio, broadband), with data transfer services being tied to broadband access.

○ Quadruple-play/Quad-play service is the triple-play bundles with at least one mobile component added, represents fixedmobile convergence, i.e., [broadband, TV, voice] with wireless provisions.

iii. Network convergence – In a transmission context, it may mean the integrated delivery, via a single delivery channel, of voice and other services, through a single network infrastructure that handles and distributes multiple types of media. Network convergence became prominent when telecommunications and information networks were integrated; it became prevalent when mobile cellular communications incorporated access to the internet and made it widespread. For example, today's cable companies process information in the form of voice, video, and data on a single network and often offer their services as a bundle package

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(e.g., phone, television, and internet services). Similarly, cellular networks, which distribute information to and from mobile devices and fixed platforms, process voice, video, and data. IPTV is one example of network convergence where same IP enabled broadband network carries internet and TV broadcast traffic simultaneously.<sup>52</sup>

(a) Convergence in Telecom and Broadcasting services has been described in more detail in <sup>53</sup>.

(b) The issue of 'convergence at network, service and device level is facing challenges due to absence of convergence at statutory, licensing, regulatory and administrative level' has been discussed in some detail in <sup>54</sup>.

(c) TRAI has observed that 'For enabling convergence of the technologies across the sectors, it is therefore necessary that old institutional structure of the Government departments/ ministries and allocation of business rules are reviewed and revisited.' in <sup>55</sup>.

## 2. ISSUES FOR PRE-CONSULTATION

**Q1.** Stakeholders are requested to provide their comments on the possible structure and content for National Broadcasting Policy, clearly outlining the specifics along with the justification. The comments may explicitly include the following titles/heads:

- Preamble
- Vision
- Mission
- Objectives:
  - Goals
  - Strategies

The stakeholders are requested that against each suggested objective, possible goals and the strategies may be explicitly provided.

**Q2.** Stakeholders may provide specific comments and suggestions for identifying objectives, goals and strategies for National Broadcasting Policy including the following aspects:

- i. Public Service Broadcasting
  - a) Requirement, Relevance and Review
  - b) Support and Validation
  - c) Content Priority
  - d) Mandatory Sharing of television programmes
  - e) Enhance global reach
- ii. Policy and Regulation
  - a) Satellite Broadcasting
  - b) Terrestrial television Broadcasting
  - c) Radio Broadcasting
  - d) Print media

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e) Digital Media

iii. Promotion of Local Content

iv. Piracy and Content Security

v. Technology innovation & Standardization

vi. Convergence

vii. Specific Regulatory Authority for Broadcasting

viii. Robust grievance redressal mechanism

ix. Role of Broadcasting during Disaster

x. Audience Measurement System:

xi. Social Goals

xii. Environmental Responsibility

xiii. Animation, Visual Effects, Gaming and Comics (AVGC) segment

Detailed comments may please be provided.

Any other issue

**Ans. Q1. & Q2.:**

No specific **Ans.**

Any other issue:-

Kindly see **Ans.3.** for kind consideration pl.

**Q3.** Stakeholders may also suggest any other issues which should be considered for formulation of National Broadcasting Policy, along with detailed justification.

**Ans.3.**

### **PART 'A'**

(i) 'Ministry of Information and Broadcasting (MIB) vide its letter dated 13<sup>th</sup> July 2023'<sup>56</sup>, **the nudge**, is behind the issue of the extant CP<sup>57</sup> is not available in the CP<sup>58</sup>.

(ii) The '**word**' convergence is not appearing at all in the extant CP<sup>59</sup>.

(iii) ITU **inter-alia** was engaged with the issue of 'convergence' as is evident from ITU Publication (Year 2004).<sup>60</sup>

(iv) TRAI did not lag behind:

(a) First CP<sup>61</sup> on the subject in 2006.

(b) Second CP<sup>62</sup> on the subject in 2023 which is still under process.

(v) Kindly refer paras **1.**, 4., 5. above.

(a) Starting with Telecom Policy (1994) the nomenclature of the same has migrated to Digital Communication Policy 2018 as per changing Ecosystem. But the new name is not in sync with The Allocation of Business Rules<sup>63</sup> where the nomenclature 'Telecom Commission'<sup>64</sup> still stands.

(b) There is already an evidence of **convergence** in Legislative Frame Work as 'PART III CODE OF ETHICS AND PROCEDURE AND SAFEGUARDS IN RELATION TO DIGITAL MEDIA----- shall be administered by the Ministry of

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Information and Broadcasting, Government of India”<sup>65</sup> & MIB has responded by<sup>66</sup>.

### PART ‘B’

1. In view of CONVERGENCE phenomenon as is evident from Part ‘A’ paras (i), (ii), (iii), (iv) above, it is not **prudent** to go in for a ‘**National Broadcasting Policy**’ at this juncture.

2. In view of para (v) of **PART ‘A’** above the nomenclature of **Digital Communication Policy 2018** may be changed to **Telecom Policy 2018** & ‘**Digital Communications Commission**’ may be reverted to ‘**Telecom Commission**’.

3. TRAI and others are in the know of phenomenon of **Convergence** **which** is almost twenty years or more years old and as such a relevant Regulatory **assessment/impact analysis** may be undertaken initially to adopt a right/judicious way forward.

4. In the meantime and taking a cue from<sup>68</sup> and precedent already set in motion<sup>69,70</sup>

(a) A Possible start is suggested as below:

It may noted that:

(a) **Communications** had been historically “Post & Telegraph” when the constituents were knotted under **Director General of Posts & Telegraphs** since 1992<sup>71</sup>

S.No	Name	From	To
1.	Mr. Charles Stewart-Wilson	191 2	191 3

(i) Communications have not been having an Independent Ministry continuously, for example, in 1962 it was under Minister Of Transport<sup>72</sup>

(ii) in 1964 Minister of Law and Communications<sup>73</sup>

(iii) in 1966 Minister of Parliament Affairs & Communications<sup>74</sup>

(iv) in 1971 Minister of State Independent Charge<sup>75</sup>

(v) in 1977 Minister of Communications<sup>76</sup>

(vi) in 1979 Minister of Communications<sup>77</sup>

(vii) in 1984 Prime Minister<sup>78</sup>

### **Bifurcation of Posts & Telegraphs Department in 1984**<sup>79</sup>

(viii) in 1989 Minister Communications<sup>80</sup>

(b) Earlier Annual Report was issued for P & T (Post and Telegraph)(Last such Report)<sup>81</sup>

(i) Presently Reports are:

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(x) ANNUAL REPORT 2022-23 Department of Telecommunications Ministry of Communications Government of India New Delhi<sup>82</sup>

(y) ANNUAL REPORT 2022-23 Department of Posts, Government of India<sup>83</sup>

(c) Considering para '1' **Part 'A'** in totality:

(i) The name of '**Department of Telecommunications**' may be changed to '**Department of Communications**' to be in sync with the nomenclature of '**Ministry of Communications**'.

(ii) '**Department of Post**' may be moved out of proposed '**Ministry of Communications**', possibly, to '**Ministry Information & Broadcasting**'.

(iii) Indian Telegraph Act 1885<sup>84</sup>, as amended, may be recast as **Indian Communications Act** keeping in view of the present evolving **CONVERGENCE Ecosystem**.

(iv) DG(telecom)<sup>85</sup> may renamed as DG(Communications)'

(v) **WMO**<sup>86</sup>, being field unit, may be transferred to DG(Telecom)<sup>87</sup>.

(d) Telecom Regulatory Authority<sup>88,89</sup> **may be renamed as 'National Regulatory Communications of INDIA'**.

(e) Telecom Disputes Settlement and Appellate Tribunal (TDSAT)<sup>90</sup> may be renamed as '**Communications Dispute Settlement Appellate Tribunal (CDSAT)**'.

## References

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9. supra '5'.
10. para I.3. of supra '5'.
11. para II.5. of supra '5'.
12. para V.11. of supra '5'.
13. para V.12. of supra '5'.
14. para VII.27 of supra '5'.

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15. para VII.28 of supra '5'.
16. para VII.29 of supra '5'.
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52. para 1.3 supra '46'.
53. paras 1.15 to 125 of supra '46'.
54. paras 1.39. to 153 of supra '46'.
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57. supra '1'.
58. ibid.
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60. supra '45'.
61. supra '43'.
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