

RJIL/TRAI/2023-24/224

7th November 2023

To,

Shri Anil Kumar Bhardwaj,

Advisor (B&CS),

Telecom Regulatory Authority of India

Mahanagar Doorsanchar Bhawan

Jawaharlal Nehru Marg, New Delhi - 110002

Subject: RJIL's comments on TRAI's Pre-Consultation Paper on Inputs for Formulation of "National Broadcasting Policy"

Dear Sir,

Please find enclosed the comments of Reliance Jio Infocomm Limited (RJIL) on the Pre-Consultation Paper dated 21.09.2023 on **"Inputs for Formulation of National Broadcasting Policy"**.

Thanking you,

Yours Sincerely,

For **Reliance Jio Infocomm Limited**

Kapoor Singh Guliani

Authorized Signatory

Enclosure: As above

**Reliance Jio Infocomm Limited's Response to
TRAI's Pre-Consultation Paper on
Inputs for Formulation of "National Broadcasting Policy"**

I. Preamble:

We sincerely thank the Authority for giving us the opportunity to submit our comments on this Pre-consultation paper. A comprehensive national policy within any sector plays a crucial role as a catalyst for attracting investments, fostering innovation, facilitating job creation, and nurturing skills development. Therefore, the initiation of a consultation on the National Broadcasting Policy (NBP) is indeed commendable and timely.

The broadcasting sector holds a pivotal position in a nation's development, serving as a vital medium for disseminating information, strengthening national unity, and bolstering overall economic progress. India's television broadcasting segment has been a substantial component of the Media and Entertainment sector, diligently serving the nation for the past several years. However, the television broadcasting segment currently grapples with formidable challenges due to declining revenue streams and subscriber base churn. This exerts significant pressure on Distribution Platform Operators (DPOs) who have made substantial capital investments in their networks.

The primary reason for the decline of the DPO Industry is the heavy-handed regulations, including price ceilings on various revenue streams, which has hindered market forces from serving customer requirements effectively. Additionally, the retail price of pay channels, a crucial factor in the adoption of DPO services and their revenue stream, has been left at the discretion of broadcasters. While these issues need to be immediately resolved to revive the DPO Industry, NBP can establish essential principles for addressing such situations in the future.

The NBP should provide comprehensive guidelines and principles to guide the broadcasting industry on various aspects, including the role of public service broadcasting, the regulation of commercial broadcasting, the promotion of diversity and local content, the protection of consumers' interests, and the introduction of new technologies. In the context of Public Broadcasting, the DPO Industry has consistently raised concerns about an uneven playing field between DD Free Dish and other DPOs. While DD Free Dish was conceived as a means to fulfill public broadcasting requirements, it now directly competes with other DPOs by carrying commercial TV channels. This is eroding DPOs' subscriber base and revenues.

Another critical consideration for policymakers is the assignment of spectrum for broadcasting services. With technological advancements, various spectrum bands can

be deployed for numerous technologies and uses, extending beyond broadcasting services to encompass other communication services. Given the scarcity and high demand for this spectrum, ensuring transparency in its allocation based on market forces is essential instead of continuing with first come first serve method.

To achieve the above-mentioned goals, we strongly advocate that a fundamental principle of the NBP should be the promotion of a fair and equitable environment, ensuring regulatory predictability and certainty for all participants within the sector.

With this background, we now proceed to provide our comments on the specific issues raised in the pre-consultation paper:

II. Issue wise response:

Q.1 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.

Response:

We believe that the fundamental principle of the National Broadcasting Policy should revolve around growth of Industry as well as safeguarding the interests of all stakeholders, including, and not limited to the various service providers and subscribers.

While a broadcasting policy encompasses a wide range of aspects relating to content creation and its delivery to the public, we are hereby providing our comments on specific issues, particularly dealing with the carriage. We would like to emphasize the inclusion of following vision and mission, goals and strategies that can be harmoniously integrated into the policy:

- **Proposed Vision Statement:**

To foster a vibrant, inclusive, and technologically advanced broadcasting sector for leading the Nation into an era of informed and connected citizens and to make broadcasting sector as a catalyst for economic growth and positive social change.
- **Proposed Mission Statements:**
 1. To facilitate the growth and innovation of the broadcasting industry by creating an environment that encourages investment and fosters technological advancements.
 2. To create a level playing field for all stakeholders, thereby promoting healthy competition and sustainable economic development within the

sector.

- **Proposed Goals:**

1. Attract investments of _____ in the Broadcasting Sector.
2. Build a robust Television Distribution Infrastructure, encompassing diverse types of networks (wireline, wireless and satellite) in the country and add _____ million TV households
3. Formulate a robust policy for the allocation of spectrum for broadcasting services, ensuring its efficient utilization, transparency in assignment procedures, and revenue generation for the National Exchequer.

- **Proposed Strategies:**

1. **To promote regulatory certainty through continuation of current licensing framework:**

Rationale:

The country boasts of a stable licensing framework that includes Uplinking and Downlinking Guidelines, the Cable TV Network Regulation Act, and various guidelines for DPOs. These guidelines have withstood the test of time and have been subject to amendments to adapt to the evolving landscape. Service providers have made significant investments based on the existing licensing framework, which also governs the structure of the broadcasting sector.

Most of the aspects of the current framework are well structured and accepted within the Industry that do not need any significant changes. Consequently, the National Broadcasting Policy should enable the future development and advancement of the sector without introducing substantial changes to the current licensing framework and sector structure.

Maintaining the current framework is imperative to ensure stability and a fair competitive environment in the sector, which, in turn, will encourage investments.

2. **To assign spectrum for broadcasting services through auctions to ensure**

transparent and fair assignment to promote various technologies and protect revenues of National Exchequer:

Rationale:

With the exception of FM broadcasting services, the assignment of spectrum for broadcasting services is currently done on a provisional administrative basis. Whereas in accordance with the legal principle established by the Hon'ble Supreme Court in its landmark judgment in the 2G case, spectrum for commercial services must be assigned through a fair and transparent auction methodology.

Furthermore, due to ongoing technological advancements, spectrum bands traditionally employed within the broadcasting sector are now viable for use in telecom networks. Consequently, given the scarcity in supply and the high demand for this spectrum, it is imperative that it is assigned through transparent auction process.

Moreover, the assignment of spectrum through auction at prices determined by the market is indispensable for optimizing spectrum utilization and safeguarding the revenue of the National Exchequer. This method of assigning spectrum leads to discovery of market-determined rates and upholds parity between wireline and wireless networks by ensuring that wireless networks can harness technical advantages of using spectrum, a Public resource, by acquiring it only after paying market-driven prices.

Hence, it is imperative for the government to assign spectrum for broadcasting services exclusively through auctions, encompassing both existing and upcoming technologies/services. This approach is essential to maintain level playing field between service providers and safeguard national interests by ensuring appropriate compensation for the allocation of public resources such as spectrum.

3. To promote growth of television broadcasting services through forbearance in regulatory framework :

Rationale:

The policy should acknowledge the significance of pricing forbearance within the regulatory framework of the Broadcasting Sector. Presently, the regulatory environment for pricing in the Broadcasting Sector is characterized by a high degree of regulation, encompassing stringent price

ceilings that govern every facet of DPOs' operations. This stands in stark contrast to the telecommunications sector, where forbearance has played a pivotal role in fostering remarkable growth and the timely deployment of advanced technologies such as 5G.

Conversely, the broadcasting sector has recently experienced a decline, largely attributable to sub-optimum and lop-sided pricing regulations and the authority granted to broadcasters to determine retail channel prices. These regulations stifle market dynamics and hinder the exploitation of the substantial competition among DPOs by curtailing their ability to independently set service prices.

Hence, it is of paramount importance that DPOs are granted the authority to determine retail channel prices, and full pricing forbearance is extended to them. While this action should be implemented promptly without waiting for the policy to be enacted, this principle should also be acknowledged in the policy to ensure it continues to guide future decision-making.

4. To review the scope of Public Service Broadcasting for ensuring no overlap between it and commercial broadcasting services:

Rationale:

Broadly, Public Service broadcasting fulfils various objectives, such as providing public with accurate information, promoting democracy, cultural preservation, education, etc. Consequently, Public Service broadcasting should align itself with these objectives. In instances where the government wishes to partake in commercial broadcasting services, it should adhere to the same regulatory framework that applies to private entities in order to ensure a level playing field for all.

In this context, the industry has drawn attention to the case of DD Free Dish. Initially established to fulfill the mission of public broadcasting in states where television viewership was below the national average, it later expanded its coverage to encompass the entire country and increased its capacity to accommodate additional channels. DD Free Dish currently provides commercial access to several pay channels for approximately 45 million households. Even though the service is offered to customers at no charge, DD Free Dish generates revenue by auctioning channel slots to broadcasters. In the most recent annual auctions, broadcasters acquired

65 channel slots, with a cumulative bid price of around INR 1070 Crores. Consequently, DD Free Dish has transitioned into the domain of commercial broadcasting services and has a significant impact on the broader DPO industry.

Due to DD Free Dish's provision of free services, other subscription-based DPOs are losing customers to it; this is primarily due to unequal playing field between the two due to non-enforcement of TRAI's Regulatory framework on DD free dish. The regulatory disparity between DD Free Dish and other DPOs is evident when considering that under the existing regulatory framework, customers of other DPOs must pay subscription charges to access pay channels, while these same channels are available for free on DD Free Dish. Additionally, DD Free Dish receives carriage fees from broadcasters for carrying these channels.

Consequently, this situation places other DPOs in an undesirable position, where they are essentially indirectly funding their own competition, as the money they pay to broadcasters is used to cover the carriage charges incurred by DD Free Dish. Furthermore, for Free-to-Air (FTA) channels, other DPOs receive significantly lower carriage fees than DD Free Dish, due to the regulatory ceiling on carriage fees imposed on the former.

The aforementioned issues require immediate attention, as they pose a severe and potentially irreparable threat to the DPO industry, which employs over 10 lakh people. This situation also raises concerns about a violation of Article 19 of the country's constitution, as it infringes on the rights of other DPOs to conduct their business freely. Therefore, it is high time that DD Free Dish is treated like any other commercial DPO in the country. This can only be achieved by enforcing TRAI's regulatory framework on DD Free Dish and transforming it into an addressable platform.

In light of the above, the proposed National Broadcast Policy must explicitly state that the objective of Public Service Broadcasting should exclude commercial services. If the Government intends to provide commercial services, it should be subject to the same conditions as those applicable to private entities' competing services.

Q.2 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
 - 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.

Response:

i. Public Service Broadcasting:

Kindly refer to our response to Question 1 wherein we have explained the issues relating to non-level playing field between DD free Dish and other DPOs.

ii. Policy and Regulation:

a) Terrestrial Broadcasting:

In recent times, there has been a substantial buzz surrounding the concept of Direct to Mobile (D2M) services. D2M is being positioned as an evolutionary step in the realm of digital terrestrial television broadcasting, enabling the direct transmission of channels to mobile phones. Furthermore, it has come to our attention that certain stakeholders are advocating for the allocation of the 526-582 MHz spectrum band free

of cost for D2M usage.

It is imperative to begin by emphasizing the importance of a technology-neutral approach when allocating spectrum, ensuring its optimal utilization. The spectrum in sub-GHz band is the most premium spectrum and is required for telecommunication services and cannot be provided to any competitor free of cost. D2M services based on non-3GPP technologies will be directly competing with the broadband services. Therefore, it would not be prudent to provide scarce and valuable spectrum for D2M services either directly or indirectly.

D2M is just one of the commercial services that could utilize the 526-582 MHz band. This spectrum holds significant importance, as it is critical for Telecommunication Services in terms of providing coverage to rural /remote areas and inside the buildings. In this context, the TRAI in its recommendations dated April 11, 2022, regarding the 'Auction of Spectrum in frequency bands designated for IMT/5G,' has advised reserving the 526-612 MHz range for IMT services, recognizing its significance in offering broader coverage and its identification for IMT services.

Evidently, this spectrum carries substantial commercial value and has huge revenue potential for National Exchequer since it is poised to be a highly sought-after resource for cellular mobile services, which utilize spectrum not only for video content delivery but also for a range of various important services, including e-commerce, e-governance, and remote education. In addition to these indirect benefits, cellular mobile operators also make contributions to the National Exchequer by paying market-determined prices. **Given that propagation characteristics of this band and its dual usage between telecom and broadcasting services, this spectrum can bring more value than even 600/700/800/900 MHz band.**

Therefore, considering the commercial worth of this spectrum and its potential utility in cellular mobile networks, it is imperative that the assignment of this spectrum occurs exclusively through auctions, adhering to a technology-neutral approach. Following its assignment through these auctions, the successful bidder can deploy it for any technology, be it cellular mobile or D2M services, thereby ensuring its optimal and versatile utilization.

This aligns with the goal and strategy proposed by us in response to Question -1 wherein we have submitted that spectrum for all broadcasting services/technologies must be assigned through auctions.

b) Satellite Broadcasting:

Spectrum Assignment for Satellite Broadcasting:

The DPO Industry consist of diverse set of service providers comprising of MSOs/Cable TV, DTH, IPTV, HITS etc. As highlighted in the Pre Consultation Paper, the distribution of subscribers within the DPO industry is as follows:

Sr No.	Platform	No. of service providers	No of connections (million)	Average connections per service provider (million)
1	MSO (Cable TV)	1748*	64	0.04
2	DTH	4	65.25	16.31
3	HITS	1	2	2
4	IPTV	25	0.65	0.03
5	DD Free Dish	1	45	45

* Count of MSOs

The table above illustrates, DTH operators, despite entering the market later than Cable TV services, have surged ahead. The subscriber base within the MSO/Cable TV industry is notably dispersed across numerous service providers. It is important to note that this discrepancy does not stem from a lack of capital investments in the MSO/Cable TV sector or superior features offered by DTH compared to Cable TV services. In fact, Cable TV Industry requires significantly higher capital investments compared to DTH, despite both offering the same service with an identical service experience.

The disparity between Cable TV and DTH can be attributed to the spectrum used by DTH, which confers distinct advantages over Cable TV. Unlike Cable TV and other terrestrial wireline service providers, who must invest in terrestrial infrastructure and pay Right of Way Charges, DTH operators do not need ground-based networks. This gives DTH a competitive edge over Cable TV and allows them to achieve nationwide coverage without the need for additional infrastructure investments. Terrestrial networks, such as Cable TV, also have to allocate resources for the upkeep and maintenance of their infrastructure. The technical advantages enjoyed by DTH over Cable TV are summarized below:

S. N.	Head	DTH	Cable TV /MSO
1	Network CAPEX	Only headend and CPE need to be installed as DTH utilizes spectrum that enables it to have a Pan India coverage	In addition to headend and CPE, Cable TV requires installation of terrestrial backhaul network that requires investment in

			equipment, and its deployment
2	Network Expansion costs	No network expansion costs incurred as coverage is omnipresent.	Network expansion costs are incurred as cable infrastructure needs to be laid to cover new areas.
3	Customer acquisition costs	Customer acquisition costs are limited to set-top boxes; even these costs are recovered partially from customers	Customer acquisition costs are high as in addition to set-top boxes, access cable infrastructure needs to be laid up to customer premises.
4	Sunk Costs in case of customer churn	Almost no sunk costs	High sunk costs due to non-reusability of access cable infrastructure
5	Charges paid for utilization of Public resources	DTH uses spectrum at almost zero cost compared with the market value of spectrum	Cable TV/MSOs pay Right of Way charges for laying their infrastructure

The above advantages enjoyed by DTH over Cable TV are only partially offset by license fee paid by DTH. Moreover, the License fee compensates partially to National Exchequer for spectrum that is assigned almost free to DTH. Therefore, continuation of license fee on DTH is necessary otherwise, it will not only exacerbate loss to National Exchequer but will further tilt the playing field in favor of DTH.

Moreover, it is a fundamental principle that services like Satellite broadcasting, which leverage spectrum—a public resource, should reimburse the National Exchequer based on market-driven prices. This principle not only guarantees fair compensation to the National Exchequer for the commercial utilization of a public resource but also levels the playing field for competing service providers who do not rely on spectrum, particularly in comparison to wireless networks.

Q.3 Stakeholders may also suggest any other issues which should be considered for formulation of National Broadcasting Policy, along with detailed justification.

Response:

No comments