



**TRAIP'S CONSULTATION PAPER ON EASE OF DOING BUSINESS IN
BROADCASTING SECTOR DATED 31st JULY 2017**

For and on behalf of STAR India Pvt. Ltd.

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Issues related to Satellite Television Channels

Q1. Is there a need for simplification of policy framework to boost growth of satellite TV industry? If yes, what changes do you suggest in present policy framework relating to satellite TV channels and why? Give your comments with justification?

Response:

The satellite TV industry has come a long way from its early days and has become a USD 20 billion dollar sector which employs almost 0.6 million people. Today, it is recognized as one of the sunrise sectors of the Indian economy and in the near future it is expected to play a great role in sustaining India's flagging services sector. However, for this vision to come true, the policy framework governing this sector needs to be overhauled and the following policy prescriptions need to be implemented immediately:

- **“Single Window” Clearance system should be made effective and time bound:**

Any sector that involves taking multiple permissions, such as satellite TV broadcasting, can be aided greatly by creating an effective online “single window” clearance system that functions like a one stop shop for all filings and also provides real time progress of all applications. Although a “Single Window” system called “Broadcast Sewa” has been implemented by the Ministry of Information and Broadcasting (“MIB”) whereby applicant can submit the application through a single window but it does involve approvals of multiple set of ministries and departments other than MIB, such as Ministry of Home Affairs (“MHA”), Department of Space (“DoS”), empaneled auditors of MIB, Ministry of Corporate Affairs (“MCA”), Ministry of Finance (“MoF”) Wireless Planning Commission (“WPC”) and National Operations and Control (“NOCC”). Therefore, it is our suggestion that an inter-ministerial panel consisting of representatives from all the above ministries/departments should review the system implemented by MIB and support the same by becoming part. Thus, the “Single Window” clearance shall be meaningfully implemented only if the applications are filed online at MIB and then the concerned Ministries/Departments are asked to give their comments online through intranet amongst ministries or follow the method adopted by the erstwhile FIPB clearance process wherein MIB could convene meetings of the concerned Ministries on a monthly or bi-monthly basis.

Also, it is felt that the involvement of multiple ministries causes delay in getting approvals in time as they do not stick to any stipulated timeframe but it also derails business planning and payment of valuable forex to foreign satellite operators. Hence, as part of the above suggested process the ministries/departments should also prepare a clear cut timeline that satellite TV businesses can rely on to take time sensitive decisions.

- **The extant policy framework should be made conducive to new technologies:**

With the advent of several new technologies the time has come to take a hard look at the extant guidelines which, many times, are not at all conducive to introduction of new technologies. The use of new technologies would allow the broadcast stakeholders to try latest techniques for efficient use of natural resources such as satellite spectrum and, which in turn, will encourage development of an eco-system that will foster development and adoption of new technologies in the sector.

- **The policy framework should accept that satellite TV industry has matured:**

The Authority is on record to state in the instant consultation paper that the licensing and compliance framework governing the satellite TV industry was made in an era when TV broadcast was considered to be an extremely sensitive activity from national security point of view among others. The Authority has also gone on to state that the perception of the industry has changed from the days of its inception and it has also matured and consumers have multiple means of accessing broadcast TV content. Therefore, it is our suggestion that the same should be reflected in the policy framework governing the sector and the need to take permission for every little change/innovation should be done away with. Moreover, MIB could make a distinction between a new broadcast entity that's entering the sector for the first time and an existing broadcast entity who simply wants to expand the operation. The threshold for differentiation between such entities could be based on years spent in broadcast operations already and size of their operation.

Q2. Is there a need in present policy framework relating to seeking permission for making changes in the name, logo, language, format, etc. related to an operational satellite TV channel? If so, what changes do you suggest and why? Give your comments with justification?

Response:

Satellite TV broadcast industry like any other industry involves innovating, and making strategic and tactical business moves aimed at greater efficiency and enhancing consumer experience. However, in the broadcast sector it has long been observed that making even small and incremental changes can become regulatory and compliance nightmares for the stakeholders in the value chain. Some these have been highlighted below:

I. Change of name and logo:

The satellite TV broadcast sector is highly dynamic and has to respond to consumer interests, tastes and preferences based upon weekly system ratings. Hence, broadcasters are pressed to change the name and logo

of their channels as they innovate upon the content being delivered. Thus, we suggest the streamlined process for changing name and logo of channel as under:

- If there is no change in the applicant company's name – a mere change in name and logo of any channel should not require elaborate documentation and time consuming process. A mere intimation with a processing fee of Rs. 25000/- (if it is changed within a year of getting license) should be enough.
- In the case of mere change of name and logo the endorsement by WPC/NOCC should be done away with and instead a process of mere “intimation” should be introduced as they are only concerned with update of records at their respective ends.
- Already this process is being adopted with regard to DTH and HITS operators. They don't need to get prior approval or endorsement of MIB/WPC/NOCC when they add a channel on their platforms. Thus, even in case of channels, mere intimation should suffice. Once MIB acknowledges the change the endorsement of WPC and NOCC of the same on the license of the teleport operator should only for record keeping purposes.
- As for the requirement of applying for trade mark registration of the logo of the channel, this should be done away with. The rationale being simple that if the incumbent broadcaster adopts a channel logo which infringes the trade mark of another entity, that entity will come after the applicant broadcaster. If a court finally adjudicates that the logo adopted by the broadcaster indeed infringes the mark of another entity, MIB can ask the broadcaster to change the logo of the channel or revoke the permission.
- For changing the logo, there has to be first a difference between “cosmetic changes” and “substantial changes”. For both an intimation should be sufficient and serve the purpose.

II. Change in format and language:

- Once a broadcaster has acquired necessary up-linking and downlinking permissions, it may be allowed to broadcast different variants of a TV channel such as SD, HD, 4K etc when content of the TV channel remains same in all versions. However, the Ministry may ask the Broadcaster to pay separate license fees for each of the formats.
- As for change in language, it should be permitted based upon an intimation by the respective broadcaster to MIB. As it is, any content, in any language, shall have to comply with the requirements of the Program Code and thus instituting a heavy handed regulatory structure for it than already exists would be illogical.

Q3. Do you agree with some of the stakeholders comment at pre-consultation stage that Annual Renewal process of TV channels needs simplification? Give your comments with justification?

Response:

We agree that the Annual Renewal Process for satellite TV channels needs to be simplified in order to improve the ease of doing business in this sector. It would be appropriate if annual renewal fee for 10 years shall be payable at single go, while issuing fresh licenses. In addition, necessary provisions can be introduced whereby permission granted to broadcasters can be withdrawn by giving prior notice even when broadcaster has permission for longer period.

Q4. Do you agree with stakeholders' comments that coordination with multiple agencies/ Government departments related to starting and operating of a TV channel can be simplified? If so, what should be the mechanism and framework for such single window system? Give your comments with justification?

Response:

To improve the ease of doing business in any industry that has multiple ministerial/departmental stakeholders in the Government dealing with different aspects of policy framework governing the sector, requires all those ministries/departments/agencies to come together and form an inter-ministerial panel/group in order to coordinate and create a single checklist for businesses operating the sector.

We have already suggested the modalities of such a system based on online "single window" clearance in our response to Q1 above. The modalities described there if adhered to would greatly aid in improving the ease of doing business for enterprises operating in the satellite TV broadcast industry.

Q5. Is present framework of seeking permission for temporary up-linking of live coverage of events of national importance including sports events is complicated and restrictive? If yes, what changes do you suggest and why? Give your suggestions with justification.

Response:

The sports broadcast business is primarily based upon making available live sports events. Presently, sports channels are treated as "non-news and current affairs" channels for the purpose of licensing by MIB and hence have to seek temporary permission for live uplink like any other channel in this category. The concern that arises over here is that as against other channels in the "non-news and current affairs" category such as GEC among others, the primary activity performed by sports channels is to reach consumers with live sports events.

It should also be noted that most times when sports channels seek temporary uplink permission they're doing so to broadcast "events of national importance" as notified by MIB. Therefore, it is incumbent that the time consuming and cumbersome process for temporary uplink of sports channels be changed as per the suggestions given below:

- In the present regime the broadcasters are forced to get prior approval from three different bodies, MIB, WPC and NOCC even for minor changes. Such a mechanism does not encourage world class entertainment events or sporting events to be live broadcast by Indian channels.
- Sports broadcasters should be allowed to broadcast live sporting events by way of a self-declaration stating that it will only live up-linking sporting events and no news or news related content shall be carried on such feed.
- For both sports and GEC channels: Applicants should merely intimate and get approval of the MIB within a prescribed time limit by giving macro details of the event which include, name of the tournament and teams involved, start and end date, details of the venue etc. and a self-declaration that the live feed will only consist of sporting or general entertainment events. Within the total approved calendar schedule if there is any last minute change (due to unavoidable reasons like rain, law and order etc.), the sports broadcaster should merely be asked to intimate rather than wait for last minute amendment and approval.
- Sports broadcasters should be permitted to seek temporary up-linking permission for their entire annual calendar of sporting events in one go.
- A broadcaster should be allowed to use single frequency in "Multi Channel per Carrier" ("MCPC") mode for sending more than one contribution feeds from the venue. This will help better utilization of the bandwidth and allow advanced technology of multiple camera feeds etc. to be provided to the viewers by the broadcaster.
- A broadcaster should be allowed to use the same transmission frequency of a satellite transponder for which it may have the appropriate frequency approvals to be used for sending contribution feeds from the venue to the teleport in a reverse direction. This technology allows for utilizing the same transponder for contribution that is used for channel transmission and thus increases the efficiency of utilizing satellite capacity.
- Also, in order to support varying business needs and consumer experience, MIB should consider permitting issuance of short term / temporary channel licenses, specifically to cater the need of broadcasting multiple feeds of the same live event (such as a sporting event in various languages) as well as assuring audiences the availability of overlapping live events (including events of national importance).

The sphere of live sports broadcasting is an expansive one with multiple issues affecting various stakeholders involved. Therefore, it would be in the fitness of things if TRAI issues a separate consultation process to get stakeholders' response on this particular topic.

Issues related to DTH/Teleports/HITS

Q6. Do you feel the need to simplify policy framework for seeking permission/license for starting and running of following services–

(i) Teleport services

(ii) DTH service

If yes, what changes do you suggest so that process of grant of permission/license can be simplified and expedited? Give your comments with justification.

Response:

Teleport services are an integral part of the satellite TV broadcasting value chain as without an earth based uplink facility, the process of broadcasting simply cannot happen. Hence, the policy framework governing such facilities should be simple and time bound.

To achieve the above, we would like to state:

- The permission/license process for teleports involve a number of stages and applicants have to approach different ministries and departments multiple times before the teleport can begin operation. This becomes a serious hurdle in improving ease of doing business in the sector. Therefore, as in the case of satellite TV channels, an online “single window” clearance system should be introduced for teleports with standardized timelines which need to be adhered to by all concerned departments and ministries. This online single window clearance system should be created as per the recommendations of an inter-ministerial panel/group which involves all the relevant ministries/departments dealing with this sector.
- Presently WPC permission is given to teleports only for a year with an annual renewal process. Often due to delay in the WPC permission there is a delay in obtaining permission for foreign exchange remittance. This may impact compliance with contractual obligations with the satellite service provider. As in the case of the license/permission to set up a teleport, the WPC permission should also be given for 10 years. A report can be submitted to the WPC/MIB on an annual basis confirming compliance with the license terms and payments made to foreign satellite providers.

Q7. As per your understanding, why open sky policy for Ku band has not been adopted when it is permitted for 'C' band? What changes do you suggest to simplify hiring of Ku band transponders for provision of DTH/HITS services? Give your comments with justification.

Response:

Implementation of "Open Sky" policy is a desirable move which would help greatly in simplifying the process of hiring Ku band transponders for provision of DTH services. It is our opinion that the following approach could be the optimum in this regard:

- With the number of introduction of new satellite TV channels, DTH operators require more Ku band capacity with footprint over India to enable to uplink all such channels on such DTH platforms. This will also allow all DTH operators to provide all channels to their consumers.
- Also due to lack of Open Sky policy in Ku band, DTH platforms are restricted to provide limited value added services, and immersive interactive services is very difficult to provide. Open Sky policy for DTH will unlock such value added services and enable viewers to consume such immersive and interactive content

Q8. What are the operational issues and bottlenecks in the current policy framework related to –

(i) Teleport services

(ii) DTH service

How these issues can be simplified and expedited? Give your comments with justification.

Response:

As already stated in response to Q7, the main issue affecting ease of doing business in the provisioning of teleport services in India is the fragmented and time and effort extensive licensing process. Apart from that we would like to highlight that due to the evolution of technology and digitalization the uplink process can be implemented in a far more efficient manner, i.e. innovative models like multiple channels on single frequency should be allowed. Consequently, if WPC and NOCC permissions have given for a transponder on a certain frequency for a new channel, any additional channel applications by the same applicant on the same transponder

and frequency should not necessitate a fresh WPC and NOCC permissions. A mere intimation should be given to the WPC and the NOCC in respect of such additional channels. In any event the WPC is doing compliance monitoring of the channels.

Q9. What are the specific issues affecting ease of doing business in cable TV sector? What modifications are required to be made in the extant framework to address these issues? Give your comments with justification.

Response:

The primary issue affecting ease of doing business in the cable sector is the incomplete implementation of digitalization process. Despite digitization of cable distribution network having been declared as completed by the MIB, there seem to be many gaping holes remaining still. In effect only 70-80% of the actual last mile network has been digitized leading to continuing under declaration by local cable operator (LCOs). We propose that the Authority along with the MIB should work closely with the Authorized Officers under the Cable Television Networks (Regulation) Act 1995 on making digitization effective so as to make the last mile actually transparent in its operations. The quality of service norms for cable operators should be implemented in letter and spirit.

Q10. Is there a need to increase validity of LCO registration from one year? In your view, what should be the validity of LCO registration? Give your comments with justification.

Response:

Validity of LCO registration can be increased to 5 years in alignment to TRAI Recommendations on “Restructuring of Cable TV Services” issued on 25th July, 2008 with renewal provisions. The present one year is not inadequate for making a long term investment and business plans by cable operators. However, any such change in the policy framework should be implemented only after the full and effective digitalization of the cable TV sector as per MIB’s digitalization roadmap. Also, the granting of licenses to LCOs should be changed from the current method of getting registered through Post Offices. As the post offices are not digitized or brought under a network there is lack of data on LCOs in the country.

Issues related to broadcasting frequency clearances

Q12. Is there a need to streamline the process of assignment of frequency by WPC and clearances from NOCC to enhance ease of doing business? What changes do you suggest and why?

Response:

Irrespective of the issue, the core factors affecting ease of doing business including those related to assignment of frequencies by WPC remain the same, i.e. (a) better inter-departmental coordination; (b) identification of clear cut timelines; & (c) creating enabling framework for new technologies. The manner in which these factors affect WPC and NOCC clearances have been detailed as follows:

- Even though WPC and NOCC belong to Department of Telecommunication, for some unknown reasons, they are located in different buildings and the endorsement/approval happen one after the other leading to delay in getting required approvals within a stipulated timeline. Operators are asked to pay Bandwidth/Frequency allocation and monitoring charges separately. This entire process need restructuring and rationalization.
- Another reason for delay is because WPC has been adopting a six monthly window system for assignment of broadcast frequencies after the 2G verdict of the Hon'ble Supreme Court in 2012. It is incumbent upon DoT to seek clarification from the Hon'ble Supreme Court regarding the assignment of broadcast frequencies as the same is for "captive" purposes as against telecom spectrum.
- Introduction of new technologies and digitalization of uplink process has allowed multiple channels can to be carried on a single frequency. Consequently, if WPC and NOCC permissions have been given for a transponder on a certain frequency for a new channel, any additional channel applications by the same applicant on the same transponder and frequency should not necessitate a fresh WPC and NOCC permissions. A mere intimation should be given to the WPC and the NOCC in respect of such additional channels. In any event the WPC is actively engaged in monitoring of such channels.

Q13. What are the reasons for delay for allocation of frequencies by WPC?

What changes do you suggest to streamline the process? Give your comments with justification.

Response: Kindly refer to our response to Q12.

Issues related to Indigenous Manufacturing

Q14. What are the key issues affecting the indigenous manufacturing of various broadcasting equipment and systems. How these issues can be addressed?

Response:

The present Government has the ambitious program of promoting manufacturing in India called “Make in India”. It is suggested that MIB should work towards making its program to promote indigenous production of set top boxes (“STB”) part of the same. This would provide necessary economic incentives including tax incentive, subsidized funding for setting up of manufacturing units and research and development to provide impetus to developing new technologies and thereby encourage the growth in this sector. Additionally, the current BIS standards need to be enhanced so that the indigenously manufactured equipment and systems would match international standards.

Other than abovementioned suggestion, MIB should look to promote start-ups operating in the sphere of broadcast equipment manufacturing by pro-actively making such enterprises part of Government’s “Start-up India” program.

Also, the Government may consider setting up special economic zones or announce special schemes for encouragement of research and development of electronic equipment within the country under the “Make in India” and “Digital India” programs. This may encourage both multi-national and domestic companies to set up units to supply required equipment for the sector and encourage employment opportunities.

Q15. Is there any other issue which will be relevant to ease of doing business in broadcasting sector? Give your suggestions with justification.

Response:

The broadcast industry faces many other issues that are not adequately addressed by the questions laid out by the Authority above. Some of them are:

- The broadcast industry has been undergoing tremendous changes in view of the evolution of new technologies, new digital platforms and new business models whereas the regulatory framework governing this sector has not kept pace with the change in technologies. Therefore, the extant guidelines need to be revisited to encourage innovation and adoption of new technologies such as UHD, Cloud, IP based transport in studios and broadcast facilities and software defined broadcasting among others.
- Value added services: Value added services (“VAS”) should be promoted as an alternative revenue stream for both distribution platforms and broadcasters. In this regard, VAS such as red button services on satellite TV channels should be permitted without the need for taking separate license/permission for a new channel.
- Efficient usage of spectrum: Next generation modulation technologies such as NS3 / NS4 is now available which enables higher data rates on the same 36MHz transponder of a satellite. Use of such technology will allow optimizing of existing satellite bandwidth and reduce the satellite capacity crunch for Occasional Usage (OU) of satellite capacity. Regulatory clearances for such technologies need to be provided in a time bound manner.
- Use of “Freeband” technology: A technology by the name of “Freeband” where the satellite bandwidth capacity used for channel transmission over the entire transponder can be used for a return contribution feed from the venue on the same satellite transponder capacity simultaneously. This requires a specialized and combined modulator – demodulator at the transmission teleport. Regulatory framework that permits the usage of such technology need to be explored.
- Resolving frequency theft: Broadcasters take approval from WPC & NOCC to uplink their channels on specific frequency from a specific teleport on C-band. There have been However, due to incidents of “rouge carrier” uplink the broadcasters authorized frequency uplink is seriously affected which leads to blackout of broadcaster’s signals till the rouge carrier exists. These “Rouge carriers” are nothing but uplink carriers put on the licensed frequency by unknown entities for which the licensed broadcaster has the license. These rouge carriers may be due to accidental radiation or purposeful radiation with higher uplink power than what is approved to the broadcaster thus overwhelming the broadcasters uplink carrier. It is requested that the WPC and NOCC departments should actively look into such issues when presented by the broadcaster with evidence and identify such sources of rouge carriers and define regulation to penalize such sources of rouge carriers and even forfeit the licenses of such up-linkers if proved guilty of purposeful disruption. STAR India has experienced rouge carrier during 2016 – 17 for durations ranging from few

minutes to few hours on all its approved transponders. The broadcaster pays annual fees to WPC for use of these frequencies which are approved by WPC, hence WPC should device means to track such rouge carrier sources and take corrective actions.

- Synergizing existing cable infrastructure with “Digital India” program: The already digitalized cable TV infrastructure based on copper and fiber co-axial cables can be utilized to provide reliable broadband services in far flung areas of India. For this purpose, MIB's Digitalization Roadmap should be aligned with Government's “Digital India” initiative. This could also involve opening up of last mile cable infrastructure to those entities interested in utilizing the same for providing broadband access. We propose that a consultation in this regard be initiated as any push towards making this segment attractive would ultimately contribute in a significant manner to the Government's ‘Digital India’ program.
- Disaster preparedness for broadcast facilities: Disaster preparedness for both teleport and satellites need to be implemented on an urgent basis given the increasing occurrence of natural disasters such as earthquakes, floods etc or possible law and order situations. It is our suggestion that TRAI issue a separate consultation process to get stakeholders response on this very important subject and come out with its recommendation. In this regard, at a preliminary level we suggest that TRAI formulate a Disaster Recovery Policy/Plan for teleports in different time zones and jurisdictions to allow broadcasts to continue operations even during times of disasters and this would also aid in effective dissemination of information during such unforeseen occurrences and allow better coordination of disaster management activities.
- Manufacture of indigenous equipment: Manufacturing of flat screen LED HD and UHD TVs indigenously would not only promote local manufacturing base but also make technologically advanced TV equipment available at competitive costs and contribute towards reduction in carbon footprint. Such TV equipment would also be equipped with international standards along with content copy protection standards defined in line with international standards. Also standards for HD STBs should be redefined separately for FTA STBs and Pay STBs to strictly support anti – piracy measures such as forensic unique identification of the STB as well as content copy protection on its various output ports. This will allow technology upgrades and also be in line with global growth and global standards.
- Unauthorized DTH services: There are many foreign DTH operators that downlink unencrypted FTA and DD FreeDish channel feeds in an unauthorized way. This to say that they operate in the territory of India without any license. In contrast to this, duly licensed DTH operators in India have to go through all the

licensing process and pay taxes to the Government. Therefore, the operation of such rogue DTH services should be stopped immediately..

- Investment issues in DTH platforms: Under the DTH guidelines, a broadcaster cannot own more than 20% of a DPO. Domestic broadcasters can today avoid this requirement through corporate structures which foreign broadcasters cannot do. To ensure a level playing field for foreign and domestic broadcasters and to enhance competition by increasing the number of players in the market, this requirement should be done away with. The situation is further skewed as distribution platforms are allowed to run their own channels without registering with the Central Government but broadcasters cannot have a stake of more than 20% in DPO. Incidentally, TRAI had already released its recommendations on “Cross Media Ownership” issued in 2014 and called upon Ministry of Information and Broadcasting (“MIB”) to remove the anomaly of 20% investment restrictions for broadcasters willing to invest in distribution platforms.
- Provisioning of signals sans interconnection agreement: There are certain principles that are now well recognized and are also part of our Regulatory framework that in the absence of any Interconnect Agreement there cannot be any provision of signals. Indeed, going by the latest precedents the same also disentitles the Broadcaster to collect any money for the signals so provided after the expiry of the term. While the same i.e. the expiry of the terms would also come with the necessary inference that there cannot be any requirement of further issuance of notice or Public Notice by the Broadcaster barring the mandated 60 days’ notice. Therefore, the Authority should make the absence of such requirement of three weeks’ Notice manifest by way of a specific and express provision.

Q16. Are there any issues in conducting trial projects to assess suitability of a new technology in broadcasting sector? Give your comments with justification. &

Q17. What should the policy framework and process for consideration and approval of such trial projects?

Response:

It is felt by industry players that the current policy and regulatory framework does not promote technology trials with an objective to understand new technologies for assessing their potential and suitability for adoption in the Indian scenario. This is because the current broadcast networks operate under a regulatory framework

where there are too many permissions required by too many agencies. Besides the applicants have to fulfill various eligibility criteria, pay requisite fees and guarantees as prescribed in the respective licensing guidelines.

There should be separate provision in the Policy framework that encourages innovation and adoption of new technologies and overall development of the ecosystem.

Q18. Stakeholders may also provide their comments with justification on any other issue relevant to the present consultation paper.

Response: Kindly refer to our response to Q15.