

**CONSULTATION PAPER  
ON  
REGULATORY FRAMEWORK FOR PLATFORM SERVICES  
23 JUNE 2014**

***TTN Response:***

Preface

The present Consultation Paper (“CP”) covers the Platform Services (“PS”) that are being offered by Delivery Platform Owner (“DPO”) on their television distribution platforms viz. cable, DTH, IPTV and HITS. The CP talks about platform services like local video channels & video-on-demand services and audio channels that deliver Indian radio channels. The CP suggests and invites views of the stakeholders on measure of regulation of PS.

While the DTH, IPTV and HITS services in India have limited players, these services operate under a license from the Government of India and thus are more organized, centrally controlled & operated and forthrightly comply with intellectual property laws, when compared to cable TV service. Another notable thing is that there is no news reporting or related service that is being run by the DTH, IPTV and HITS operators and we only find them running channels dedicated to video-on-demand services, music channels, devotional feed from pilgrimage places, advertisements, etc. While on the other hand PS on cable television comprise of various services including linear channels viz. movie channels, local news and events, extensive coverage of local political rallies and speeches, music channels, coverage of local sports and cultural events. Certain big MSOs in Maharashtra, Delhi, Punjab, Orissa and Kerala, Uttar Pradesh, Tamil Nadu and Gujrat have 20-30 channels that form a part of their PS. Amongst the PS for cable TV, half of the channels have significant portions of local news & current events, political discussions & debates.

Our concern is primarily regarding the PS for cable TV on the issues of (i) compliance of intellectual property rights of the content owners & related laws; and (ii) broadcasting of news and current affairs. We have discussed the issues, in detail, with PS for cable services as under:

**(i) Issue regarding Intellectual Property Rights:**

For running any television channel, content is the basic requirement. The content can be licensed or created/ produced. Whereas licensing would require only financial resources but creation of content, either in-house or

commissioned, shall involve significant creativity, costs, time, material and manpower resources. Most MSOs to save the license costs and owing to their inability to create quality content, habitually indulge in piracy and copyright violations. Such MSOs pick up content for the re-transmission on cable PS, either from the internet or illegal grey market. Such content may not be fit for public viewing, as it is unedited and without the requisite CBFC certification. The adverse implications for such illegal practice by cable operators is multifold, some of them are listed as under:

- Exposure to uncertified content that may be harmful and not fit for consumption of people of certain ages.
- Showcasing violent and adult content to gain cheap popularity and lure viewership.
- Showcasing types of advertisements which have been banned by the government.
- Broadcast of programmes encouraging superstition and blind belief.
- Violation of intellectual property and copyright of the rightful owners/ licensors of content.
- Loss of rightful dues to broadcasters, content owners and licensors.

**(ii) Broadcasting of News & Current Affairs:**

Public enlightenment is the forerunner of justice and the foundation of democracy. The duty of the journalist is to further those ends by seeking truth and providing a fair and comprehensive account of events and issues. Conscientious journalists from all media and specialties strive to serve the public with thoroughness and honesty. Professional integrity is the cornerstone of a journalist's credibility.

As fair and impartial observers, news reporting must be free from apparent conflict of interest. Thus, broadcasting of local news & current affairs by cable operators at their level is a major concern. Reported news can have a profound impact on the people, businesses and institutions they cover, as well as society at large. The local news on cable TV is a major attraction for the local people, therefore, such programmes that contain local news and current affairs are very popular and are keenly watched. If a local cable news channel does choose to engage in outside political activity or espouse a particular political viewpoint, this activity could create a public perception of bias, or favoritism that would reflect on its journalist's work and on other news channels/ outlets, in general.

However, news, especially live news and current affairs reporting remains a very sensitive issue as it may have myriad implications and long lasting effects on the audience. Some of the issues that may occur from

unorganized and amateur news reporting by cable operators are listed as under:

- Scale of operation - Lack of in depth research, and analysis while presenting news, as well as in discussions & debates.
- Misuse of journalistic privileges of non-disclosure of source of news and information.
- Influencing smaller groups to form opinions and affect public sentiment.
- Invasion of individual privacy and under cover reporting under pretext of news reporting.
- Using TV channels for showcasing libelous and defamatory materials to cause injury to individual reputation.
- Paid news.
- Misuse of the defense of 'Fair Dealing' for news reporting under the copyright law for using copyrighted material for purposes of commentary and criticism, and parody, without first seeking permission
- Favoritism and undue bias towards political parties and politicians to whom the local cable operators owe their allegiance out of political affinity or under influence of money or political power.
- Unreasonable reporting of events to garner sympathies or ignite strong emotions between ethnical and religious segments of local population that may give rise to uncontrolled situations of conflicts and arson.

The people engaged in journalism, especially television news reporting, are largely committing themselves to honesty, fairness, independence & respect for the rights of others. Their reporting is constantly under scrutiny from their audience and readers, their counterparts and government agencies & industry bodies. This way the chances of drifting away from journalistic ethics and fair reporting principles are continuously marginalized, but such checks and balances can only be carried out when the reported news content is subject for constant monitoring. Thus the above cited issues are a cause of major concern if PS for cable TV remains unregulated. Since every town/ area has 3-4 cable operators, it will be extremely difficult to keep a track of their compliance of license terms, even if they are licensed and regulated by a competent authority.

We can't pick a cue from the international practices in this regard because of the fact that India is a very diverse country where multiplicity of cultures, languages and religion persists at the same time and place and also where regions and regional politics play a significant role. Over the years, we have developed our own standards of religious and cultural tolerance which are indigenous and unique. In the past we have witnessed that the result of the multiple and complex interests of regions, states and/or various types of groups within them leads to economic, social and political conflicts. The role of the news media in covering such conflicts is extremely crucial, especially the coverage of events and the way they are portrayed is very important. Mere comment-free reporting of events, to get both sides of the story and double check the facts before airing may not be enough in reporting volatile situations. Thus Ministry of Information and Broadcasting, being the regulator for content on television issues directions and advisory to news media for handling and reporting of sensitive issues, from time to time. If news reporting of communal or sensitive nature is unreasonable, presented in an amateur manner & without restraint, proper understanding and adhering to media reporting guidelines may lead to alarming situations and if it is done locally and left unchecked, it may lead to situations of humanitarian crisis and bloodshed of extreme nature.

In fact, even if these services are regulated and responsibility of compliance of the license conditions is fixed, there shall remain issue of effective implementation and monitoring of such conditions at the local level. Moreover the mechanism of monitoring would be very difficult considering that there are hundreds of channels to be scrutinized for content for each town/ city.

On the premise of the concerns and issues discussed above, our response on the issues under the CP is as following:

**ISSUES FOR CONSULTATION:**

**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.”***

*Comment:*

The definition suggested by the Authority in the CP does not clearly bring out meaning of platform services as discussed in the CP. Therefore, we propose that Platform Services should be defined as under:

*“Platform Services (PS) are non-core services, that include audio & video programming, gaming or social media content, which are offered by the Distribution Platform Operators (DPOs) to its subscribers besides the core services of re-transmission of satellite channels on its distribution platform.”*

**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;**

**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;**

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

**2. PS channels can transmit/ include**

**2.2.1 Movie/ Video on demand;**

**2.2.2 Interactive games;**

**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;****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.***Comments:*

For the reasons we have already discussed above, we are of the view that 'Any news and/or current affairs programs' and 'Coverage of political events of any nature', mentioned in 2.1.1 & 2.1.2, respectively, should not be allowed on PS. Also, programmes falling under 2.1.3 and 2.1.4 should not be allowed if due rights/ permissions have not be secured. Rest all programming as mentioned under the above issue of consultation can be allowed for PS. We would also like to add that programming code & advertisement code, as provided under the Cable Television Networks Rules, 1994, as amended from time to time, should be strictly implemented on the PS for sensible viewing for all ages, restriction on banned advertisements, safeguard intellectual property and copyright of the rightful owners/ licensors and airing of only certified and legal content.

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

The content aired over the PS should be under continuous review as being done for the satellite TV channels in India. The present system of monitoring of content aired by the satellite channels, as being done by the Ministry of Information and Broadcasting, either directly or through industry forums like BCCC, would not be technically feasible for PS on cable TV, therefore the state and district content committees, headed by an officer/ officers of the Central Government authorized by the State Government , should be enabled to review content on PS and also be empowered to check and penalize illegal and unauthorized transmission of content by DPOs on their PS.

**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?***Comments:*

The CP has discussed and laid out the benefits of registration of DPOs under the Companies Act, as amended. We would also like to add that an entity

registered under the Companies Act, would have certain more advantages viz. clear asset allocation & protection, increase credibility of the entity, name & identity protection, perpetual existence and deductible expenses before allocation of income to owners.

Since DPOs for IPTV, HITS & DTH and the majority of DAS MSOs are registered entities under the Companies Act, our suggestion is that uniformity may be prescribed for all DPOs and registration under the Companies Act should be made mandatory. This will also succor in fixing liability on an individual responsible for violation of the prescribed regulation and laws for the PS.

**5. Views, if any, on FDI limits?**

*Comments:*

The only mismatch in terms of the allowed/ proposed FDI is for news and current affairs channels. We have already clarified with reasons thereof, that DPOs should not be allowed to re-transmit any news and/or current affairs programs and coverage of political events of any nature. If the news and/or current affairs programs and coverage of political events is kept out of the purview of allowed services on PS, the issue of FDI and the conflict, thereof can be easily managed and done away with.

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

**Comments:**

There should be some minimum net-worth required for offering PS channels, atleast for the cable services. This will bring certain level of seriousness and quality in delivery of such services, as well as content on such PS. An area wise classification can be done to prescribed minimum net-worth for PS services to ensure equal opportunity for all classes of DPOs.

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

*Comments:*

We are of the view that if news and/or current affairs programs and coverage of political events is kept out of the purview of allowed services on PS, then there is no need for security clearances/ conditions for the DPOs.

**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?**

*Comments:*

The registration is must of DPOs for offering PS services. Such registration will help in identifying and monitoring the DPOs that are providing PS services. The online registration process is simpler and faster, however the online registration should be followed up with physical verification of information submitted by the DPO in the online registration. Till the physical verification is successfully done to the satisfaction of the competent authority or officer, the registration for PS should only remain as provisional.

The minimum registration and annual fee per channel can be both Rs. 10,000 per channel, which would be fair and affordable for all DPOs on cable platform. Whereas, since DTH, IPTV and HITS' PS would have a national footprint, the registration fee should accordingly fixed higher than for the cable DPOs. Our suggestion is that minimum registration and annual fee for DTH, IPTV and HITS' PS should be kept at Rs. 10,00,000/- per channel.

**9. What is your proposal for renewal of permission?***Comments:*

All renewals of permissions for PS should be subject to timely payment of annual fee, compliance of mandatory provisions for prescribed content code and also considering the number of violations of the conditions of permission for PS.

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

There should be **NO** limits in terms of geographical area within India for PS channels.

**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?***Comments:*

There should be **NO** limits in terms number of PS channels which can be operated by a DPO.

**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.**

*Comments:*

We suggest that the obligations/ restrictions on DPOs should have all the conditions as mentioned in 12.1, 12.2 & 12.3, above.

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

*Comments:*

We suggest that other obligations/ restrictions that need to be imposed on DPOs for offering PS should include strict adherence of intellectual property laws of content holders and laws related individual privacy and decency.

**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?**

*Comments:*

The re-transmission of FM channel in the areas other than FM channel's licensed area may have implication related to intellectual property rights for content owners, if this issue can be legally addressed by either FM channels or the DPOs, then DPOs should be permitted to re-transmit already permitted and operational FM radio channels under suitable arrangement with FM operator

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

*Comments:*

Ideally, the mechanism for monitoring of PS channel should be as it is being done for satellite TV channels. However technically this is not feasible for cable PS, in such a case content monitoring units need to be set up at district and state levels, otherwise, the whole exercise for formulation of regulatory framework for PS may become futile. In order to make effective implementation of PS, such content monitoring units, comprising of officers of the State/ Central Government and headed by Group 'A' officer of the Central Government authorized by the State Government, at district and state levels should be

empowered with punitive and pecuniary powers for action against violation of terms and conditions for running PS.

**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.**

*Comments:*

**YES**, we 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.

**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?**

*Comments:*

At present, the license/ registration for DPOs are mere permissions that encompass technical and commercial parameters for their core service viz. retransmission of satellite channels using their cable TV, HITS and DTH platforms. Whereas there are no specific terms & conditions in the existing registration/ guidelines/ permission/ license agreements w.r.t. DPOs for regulating their PS channels. In view thereof, it is suggested that terms & conditions for DPOs for regulating the PS channels should be on the lines of the downlinking conditions as prescribed by Ministry of Information & Broadcasting for the satellite TV channels.

**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?**

*Comments:*

While the terms and conditions for the content and advertisement code should be prescribed and be made mandatory for PS with immediate effect, however the registration and compliance of eligibility criteria, thereof for the DPOs of the existing PS channels, may be allowed to comply within six months from the date of notification of such registration guidelines for PS.

**19. Stakeholders may also provide their comments on any other issue relevant to the present consultation including any changes required in the existing regulatory framework.**

*Comments:*

Some of our views have already been detailed in the preface to our response, the same may also be considered as our views and comments, along with our specific comments to the issues discussed, herein above.