

Pre-Consultation Paper on Inputs for Formulation of “National Broadcasting Policy”

USISPF welcomes the opportunity to submit feedback on the TRAI Pre-Consultation Paper on the “National Broadcasting Policy.”

Broadcasting is a key constituent of India’s dynamic Media & Entertainment (M&E) sector and holds immense potential for growth. An enabling policy framework will help the broadcasting industry capitalise on this potential, and position India as a ‘Vishwa Guru’, or global leader in broadcasting, aligning with the Government’s vision of a USD 5 trillion Indian economy.

The National Broadcasting Policy should include guiding principles to boost the development of the broadcasting sector and associated ecosystem to increase its contributions to the Indian economy. Please see our recommendations below.

Principles Based Policy: We recommend that the National Broadcasting Policy should set out overarching principles that provide a roadmap for regulators as they develop rules and regulations for this sector. Given that the broadcasting sector includes diverse stakeholders operating in a rapidly changing technological environment, prescriptive measures will prevent the policy from being future-proofed and current with evolving technology, business models and viewer consumption trends.

Separate Obligations for Public and Private Sector Broadcasters: Given India’s size and diversity, the growth and development of the public broadcaster has played a crucial role in disseminating news and information across the nation. Prasar Bharati (as well as Doordashan and All India Radio services) has a long-standing presence in India and operates to serve the objective of public duty. Given Prasar Bharati’s entrenched position, there is no requirement to impose overlapping mandates on the private sector. Blurring the distinct role of public and private broadcasters will stymie the growth of the private sector and limit the private sector’s ability to cater to the creative needs of the broadcasting industry as well as viewers.

Maintain Distinction between Different Services: While the background sets out that the “broadcasting sector consists of television and radio services,” the suggested framework includes digital media (both intermediaries and publishers of online curated content) and print media as “broadcasting services”. We recommend that the policy acknowledges the differences in these distinct sectors.

There are technical distinctions between telecom, broadcasting, and digital services (including the infrastructure and mode of transmission), which justify separate treatment. This is reflected in a recent decision of the Telecom Disputes and Settlement Appellate Tribunal (TDSAT), which held that an OTT service is not a TV channel based on several distinctions between the two, and the separate laws that govern either service.¹

Moreover, these distinctions are reflected in separate regulatory frameworks for different services under existing law. The Ministry of Electronics and Information Technology (MeitY) has administrative jurisdiction over both intermediaries and Online Curated Content Providers (OCCPs), and regulates them under the Information Technology Act, 2000 and the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021. The Indian Telegraph Act, 1885 and corresponding rules empower the Department of Telecommunications to oversee the regulation of the telecom sector. Upcoming laws such as the Indian Telecommunication Act, Digital India Act, and Broadcasting Services Act are also likely to further draw out these distinctions. Accordingly, we recommend that the National Broadcasting Policy should acknowledge these distinctions as well.

¹ All India Digital Cable Federation vs. Star India Pvt. Ltd., Broadcasting Petition/217/2023, available at: https://tdsat.gov.in/Delhi/services/daily_order_view.php?filing_no=NDM2MzM=

Vision for the National Broadcasting Policy:

Mission: We recommend that the National Broadcasting Policy should focus on:

- Developing a vibrant and resilient broadcasting sector by enabling an ecosystem for high-quality content creation in a variety of languages and formats, and ensuring dissemination of reliable news and information
- Positioning India as a global hub for content production (including local content) and exporting Indian content to the world
- Creating a roadmap to recognise, protect and uphold intellectual rights protections
- Developing technical capabilities in emerging technology such as Animation and Visual Effects to meet global requirements for skilled labour
- Creating a globally competitive and growth-oriented broadcasting sector with enhanced ease of doing business, state-of-the-art infrastructure, seamless market entry, world-class distribution technology, enhanced content security with strong intellectual property protections and anti-piracy frameworks

Objective: We believe that an enabling policy framework for the broadcasting sector can double the broadcasting sector's contribution to the Indian economy by 2047 in terms of revenue (as a share of GDP), employment, and export value as a share of total exports. Therefore, we recommend that the policy should prioritise some key objectives, including:

- Measuring the broadcasting sector's contribution to the Indian economy and setting targets for the sector
- Easing the business environment by focusing on light-touch regulation
- Building sector-specific institutional capacity to address existing and emerging concerns
- Increasing the size and scope of the broadcasting value chain via investment promotion
- Fostering the growth of state-of-the-art broadcasting infrastructure across all relevant supply chains
- Transforming India into a global content hub
- Promoting greater transparency in TV and radio broadcasting by encouraging robust audience measurement
- Strengthening grievance redressal & consumer feedback processes for quality of service
- Reinvigorating public interest programming hosted by the public broadcasters
- Skilling and capacity building in keeping with market forces and new-age technology
- Formulating a Disaster Recovery Mechanism for both air-assets (such as satellites and transponders) and ground-assets (including teleport) as the sector is involved in round the clock content dissemination involving multiple service providers, including content producers, satellite operators and earth stations.