

**28<sup>th</sup> August 2017**

To,

**Mr. M. Kasim,**  
Advisor (B&CS)-III,  
Telecom Regulatory Authority of India  
Mahanagar Doorsanchar Bhawan,  
Jawaharlal Nehru Marg (Old Minto Road),  
**New Delhi - 110002**

**Ref:-Consultation paper on "Ease of Doing Business in Broadcasting Sector released by TRAI on 31<sup>st</sup> July 2017**

Dear Sir,

Enclosed is our detailed reply on the captioned consultation paper for your perusal and records.

Thanking you

For **Videocon d2h Limited**

(Authorized Signatory)

**Our comments on the issues referred to in the captioned consultation paper are as follows:-**

At the outset, we would like to put on record our sincere appreciation for all endeavors and measures which the Hon. Authority has been taking in the recent past, to systematically regularize the sector by periodically introducing diverse regulations and deeply involving the stakeholders in its processes.

The captioned consultation paper is likewise a welcome step further to create not only a level playing field but also to ensure that the red tape is eliminated thereby allowing the stakeholders to do their business with ease.

Our response to various issues are as follows:

**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?**

**A.1** Issues related to simplification of policy framework to boost growth of satellite TV industry.

We would like to briefly summarize the often encountered impediments while going through the processes and procedures for obtaining permission/license/registration for broadcasting services and subsequent compliances connected with these permissions.

**(a) Up-linking of TV channels:-**

As the Authority is aware it had on 22<sup>nd</sup> July, 2010 recommended certain things to the Ministry of Information and Broadcasting on the Up-linking and Down-linking of channels. Although the latest status of those recommendations of the Authority is not exactly known to the stakeholders, we feel that we await the response of the Ministry in this regard.

**(b) Down-linking of TV channels**

We reserve our rights to comment on this and will file our appropriate response at the right time.

**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?**

We reserve our rights to comment on this and will file our appropriate response at the right time.

**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?**

We reserve our rights to comment on this and will file our appropriate response at the right time.

**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?**

We reserve our rights to comment on this and will file our appropriate response at the right time.

**Q5. Is present framework of seeking permission for temporary uplinking 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.**

We reserve our rights to comment on this and will file our appropriate response at the right time.

**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.**

**AND**

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

**(iii) Teleport services**

**(iv) DTH service**

**A.6 & 8 (iii) Teleport Services**

We reserve our rights to comment on these services and will file our appropriate response at the right time.

**(iv) DTH service.**

As the Authority is well aware, whilst establishing, commissioning and operating the Direct to Home Facility/Headend, the Direct to Home Service Provider has to necessarily invest capital unconscionably and continue to do so in order to maintain the same. We would like to put forth our genuine suggestions with respect to serious issues being countered continuously by the DTH industry as below.

The rapid innovation and strides the technology has seen in the last decade is the reason that we can access any data, call, chat, navigation services using portable devices like smart-phones, laptops, tablets etc. but not limited to traditional usage for the purpose of email, surfing, social networking, banking purposes etc. Now, internet service facilities such as internet calling, video calling, audio/video streaming, navigation (GPS) facilities have fused as OTT Video Services and are available at large to the consumers. Such OTT Video Services are readily available through online websites, applications (Apps) etc. through portable devices such as laptops, smart-phones, tablets, etc.

Various DTH licensing, regulatory, taxation issues are pending for resolution at different stages, which need to be looked into and examined expeditiously in order to insure that a level playing field is created for DTH players and this need has become more expedient and necessary due to emergence of OTT platforms.

**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.**

We reserve our rights to comment on these services and will file our appropriate response at the right time.

**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.**

We reserve our rights to comment on these services and will file our appropriate response at the right time.

**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.**

No comments are offered on the subject.

**Q11. What are the issues in the extant policy guidelines that are affecting the ease of doing business in FM sector? What changes and modifications are required to address these issues? Give your comments with justification.**

No comments are offered on the subject.

**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?**

**A.12** As the Authority is aware, a DTH provider is providing DTH Services on the basis of License Agreement executed with the Ministry of Information and Broadcasting, Government of India. It would be ideal if the allocation of broadcasting spectrum is provided under a single window so as to cut down on unnecessary expenses and streamline the process for the same. Currently there are multiple Government Authorities to whom a DTH operator has to necessarily approach for grant of numerous licenses, permissions and renewals of such licenses and permissions. Similarly there are obligations on the DTH operator to pay various kinds of fees, charges, rents to such authorities, which make the conduct of business financially less viable. We are of the view that if all such licensing permissions and payment obligations are brought under a single window of the Government then it would be beneficial not only to DTH operators but will also be an effective tool in the hands of the Government to govern and regulate the DTH industry as a whole.

**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.**

We reserve our rights to comment on these services and will file our appropriate response at the right time.

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

**A.14.** Indigenous manufacturing of broadcasting equipment

In the process of completing the digitalization the supply of Set Top Boxes have proved and will be very crucial to meet the deadlines. In respect of production and manufacturing of Set Top Boxes not only for completing the process of digitalization expeditiously but even otherwise, it will be ideal if indigenous production and manufacturing of Set Top Boxes is given boost to bolster the entire process of digitalization and overall business, as such encouragement and incentives to Indian Companies will act as a panacea to all impediments of demand and supply of Set Top Boxes across the country in future too.

Full exemption from Customs duty was provided on Set Top Boxes in the year 2006 to enable their free import for smooth introduction of Conditional Access System in the country. Thereafter since the Set Top Box production capacity has gone up in the country, the Government levied a nominal 10% customs duty to encourage domestic value addition. After this imposition in 2009-10, the production capacity has further increased to such an extent that the indigenous companies are confident that given a right market and commercial environment they are ready and capable to satisfy the

needs of the market by supplying the requisite number of Set Top Boxes. In this context, now, to once again consider either the reduction or complete abolition of customs duty will be a step backward in the context of our aim of encouraging domestic manufacturing. This will hamper and may jeopardize the interests of all local and domestic manufacturers in the country and will culminate into a deterrent to the business itself.

India is well known for its software prowess. But on the hardware front the progress is rather slow and tardy. However, the country has been making gains in this sector also. It will be ideal that this momentum is not tilted against the indigenous manufacturers by abolishing the customs duty. However, in fact it will be a step forward if the customs duty on the specified components of such Set Top Boxes is either reduced further or made zero. This move will enable and encourage the domestic manufacturing companies to produce more and thus cater to the market demands which will grow in the process of complete digitalization. The Ministry of Communications Technology had also confirmed that at least 20 million Set Top Boxes will be required when the process starts getting momentum.

It is also a well known fact that ahead of the migration from analogue to digital broadcasting by 2014, the Ministry of Communications Technology is going to go hand in hand with the Ministry of Trade and Investment to support indigenous Information and Communications Technology companies in the manufacture of Set Top Boxes in the country. In our view this is a correct step forward to promote the domestic market and to bring about equilibrium to the graph of demand and supply of Set Top Boxes in the country.

In our view and in the context of the digitalization the usage of “non addressable Set Top Boxes” is not irrelevant. There will be no place for such non addressable Set Top Boxes in future. The definition of “Addressable System” as given in The Telecommunication (Broadcasting and Cable Services (Fourth) (Addressable Systems) Tariff Order, 2010 dated 21st July 2010 clearly includes digital addressable cable services and thus the reference of non addressable set top boxes in the consultation paper seems to be misplaced.

Additionally, we would also like to point out that since the process of digitalization offers best chance for domestic manufacturers to grow it is equally important to eliminate obstacles in their way. One such impediment is the local Value Added Tax.

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

**A.15. Other Issues**

(a) Disaster Recovery Site for DTH Operator

As the Authority is aware, every DTH Operator is providing DTH Services on the basis of License Agreement executed with the Ministry of Information and Broadcasting, Government of India, which agreement has

clear provisions about a DTH Operator who has to establish and complete the installation of the uplink earth-station with all monitoring facilities and thus commission the DTH Platform. The License Agreement has further provisions as to the procedures, permissions, licenses to be obtained from various other government bodies.

As the Authority is aware, every DTH Operator has already invested huge amounts of the capital in establishing, commissioning, operating and maintaining its head-end network. It is noteworthy here to mention, that on the basis of suggestion made by the Authority from time to time that practically every single DTH Operator has established an additional head-end in order to safeguard the interest of the customers and as a measure for ensuring that if due to any technological reason the primary head-end is met with interruption or if it were to go entirely bust then there is a fallback option with such a DTH Operator to rely upon the additional head-end to continue to provide DTH Services to customers without interruption or inconvenience to them.

We would like to state that, common infrastructure sharing amongst DTH Operators could be at best permitted by making it purely voluntary option. This will further boost the performance of every DTH operator towards its subscribers and would save energy. There is no need for bringing in any set of rules, regulations or law for such voluntary sharing by these platforms.

As the Authority is aware, practically every DTH Operator has a Disaster Recovery/ backup head-end to safeguard the interest of the customers in ensuring that they receive and are able to view the DTH services, in event of any disaster affecting the operation of the primary site. In this regard, we would like to state that, since we have spent huge capital in establishing the disaster recovery backup head-end we would like to ensure that such backup head-end does not lie unused in routine operations, it will be ideal on the part of the Authority to enable and allow us to use such backup head-end simultaneously in an active mode, thus reducing burden on primary head-end.

The reasons for the same are elucidated as under:-

DTH Operators are serving to consumers spread across the territory of India and one of the key aspects for the business is to have a site diversity plan for safeguarding the interests of all our consumers, and consumers should not suffer in case of an eventuality arising out of natural calamity or manmade disaster.

As the DTH services are highly capital intensive and require heavy investments in terms of the setting up the earth station and turnaround facilities and then the arrangements with the satellite providers which include the cost of transponder lease, spectrum royalty, monitoring charges etc., it will be highly cumbersome and complex processes which would be required to be put in vogue if the scheme of sharing of common

infrastructure by all distribution platforms is to be thought off, and it would be equally difficult to actually translate this theoretical scheme into practice. Equally if not more will the factors like license fee, multiple taxation, high content cost be critical in further burdening a DTH Operator with additional costs since the DTH industry is still struggling to make profits.

So considering the aforementioned facts of being highly capital intensive, running this Disaster recovery site becomes a major cost and adds to the annual expenses of the company. Also, the broadcast equipment needs to be powered on, manned and maintained as per the AMC and maintenance schedules, which in fact is a major expense and loss of energy for the setup which needs to be actually activated during a particular situation which may or may not arise.

However there can be a different approach to this redundant service wherein the same Disaster recovery site can be utilized more effectively and efficiently without loss of the critical resources by utilizing the same facility for simultaneous utilization on a real time basis of the actual services with the main head-end.

The services from Disaster Recovery site (secondary head-end) shall result in saving in the CAPEX and OPEX along with several advantages without compromising either on the quality of the program.

As in this case, Operator shall be up-linking some of the allocated transponders from the primary site and the remaining transponders will be uplinked from the disaster recovery site (secondary head-end).

Few of the advantages of simultaneous usage of the primary with the disaster recovery site (secondary head-end) are as follows:

**a) Better QOS for all the customers**

With the concept of both the locations simultaneously sharing the load of the live network, customers will be getting an additional advantage in terms of continuously getting seamless services at least for half of the network during any point in time.

**b) Efficient utilization of man power**

Whether we keep the services inactive at the Disaster recovery site, it still needs to be manned with the skilled and qualified staff for ensuring health and quality of services of the equipment or the network.

In case of simultaneous use of the Disaster recovery site with the main site, the network will also be up-linking from Disaster recovery site which means that the manpower stationed at Disaster recovery site including shift engineers, managers etc will be dynamically active and proactively alert while operating the running Earth Station resulting in efficient utilization of time, money, efforts and energies. Productivity level would be increased when resources are utilized in best possible manner.



**c) Routine Maintenance and AMC cost**

In complex and sensitive networks like DTH setup, quality is a prime factor. Quality output from any machine depends on machine's repeat performance. To get repeat performance; machine maintenance is a key factor. In DR Site, all the major equipment which includes the Earth Station Equipments, RF Systems, Compression Equipment, Conditional Access Systems, IT Systems, Billing Systems, Cooling System, Air Purification system, UPS system, Power Provisioning System etc need routine and operational maintenance which needs to be carried out by the specialized teams along with entering into an annual maintenance contracts with the OEM's. This is a huge cost any may get in the tune of tens of crores annually which may only be justified if the equipment is utilized for a real time activity.

**d) Life of Equipment and Depreciation of Asset**

All the Broadcast and IT equipment have a limited running life where in the life of most of the RF equipment is measured in hours and the equipment of IT is considered to be in the end of life within 3 to 5 years of a life span. The losses in this case can run into crores on an annual basis. This is a huge cost and would need real operations of services to be justified.

**e) Operational Network will ensure the instant and seamless switching**

Most imperative functionality of DR setup is to operate in the case of failure of the primary earth station which may be due to any reason that includes natural calamities, technical and infrastructure failure. No matter what the cause, outages can lead to fail of operations, decreased productivity, Loss of revenue, unhappy customers, which in the worst case may also lead to temporary or permanent shutdown of the business.

If the DR is in idle state from a long time, the possibility of malfunctioning of the equipments cannot be ruled out in which we may find that certain equipments could not trigger or perform as per the required throughput. Keeping this criticality in view continuous operation of the DR site is highly important and beneficial to all the stakeholders.

**f) Life of Earth Station Equipments at DR Site will be degraded if kept in an idle for a long time**

DR earth station comprises of several amplification and up-conversion equipments e.g. Travelling Wave Tube Amplifier ('TWTA') if kept powered off for prolonged period then life of its amplification part, electron generation part, magnetic section will be degraded over the time with respect to running condition. Excessive idling can actually damage the ground station equipments as these are the microwave equipments.

In this scenario, keeping this equipment active is consuming its rated hours of specified life without effectively utilizing its throughput and also generating radio waves which may get reflected from the network may be a point of issue considering its impact on the manpower and the adjacent

networks. Hence, simultaneous usage of the DR site should be permitted along with the primary site.

**g) Efficient utilization of Energy (Electricity)**

Despite being in inactive state, still majority of the broadcast equipment and servers needs to be active in the power-on mode for effective operation.

In such case, wasting energy by just keeping the equipment powered-on for waiting an eventuality is a major loss of a critical resource (electricity) along with the financial loss to the organization.

Hence by load sharing the powered equipments will be fully utilized thereby reducing the equivalent electrical load of the primary site.

**In view of this elaborate reasoning we would request the Authority to kindly allow every DTH operator to use and utilize the DR site simultaneously along with the primary head end so as to save cost, environment and also to efficaciously render services to the end subscribers.**

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

We reserve our rights to comment on these services and will file our appropriate response at the right time.

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

We reserve our rights to comment on these services and will file our appropriate response at the right time.

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

## **A.18 OTT VIDEO SERVICES**

### **A-1 FREE CONTENT TO OTT VIDEO SERVICE PROVIDERS:-**

As the Authority is aware that OTT Video Service Providers like Hotstar.com, Starsports.com, Ditto Tv, Netflix, Bigflix, Eros Now, Box tv, SonyLiv, Everywhere Tv are being provided with video content by various Broadcasters, Channel and Content owners free of cost. These services are unregulated since inception and it is necessary that necessary steps and measures are urgently taken in order to halt excessive and illegal encroachment on the services being provided by other platforms like DTH. DTH, as the Authority is aware is a regulated segment of the broadcasting sector since its commencement in the country unlike the OTT services, which have gone unfettered

and uncontrolled, and which has resulted in creating a huge in-equilibrium in the market.

Latest emergence of platforms like Reliance JIO services which are entirely unregulated under applicable laws, rules and regulations is another such example as to how uneven level field is getting generated gradually and how competition is destroyed. If this is not reigned in at this moment, then other similarly placed players would not be able to sustain themselves and survive at all.

### **A-2 OTT VIDEO SERVICES OPERATION WITHOUT LICENSING, LEGAL AND REGULATORY REGIME**

As stated above, OTT Video Service Providers are currently not regulated at all. They are neither required to get themselves registered with any Government Body or Ministry nor are they bound to pay any kind of License Fee or Charges to the Government. Unlike other service providers OTT Video Service Providers also are not required to invest any capital into their business and as such the total benefits are tilted in their favour. Anyone has to merely purchase a mobile handset and subscribe to any telecom operator's services and become eligible to view practically all programs, content, live telecast, entertainment, movies, news free of cost, which are the same being transmitted on the DTH platform albeit under strict adherence to legal, regulatory and taxation regime. This disparity between two re-transmitters of the same type of content has created lopsided scenario in the broadcasting industry and has put DTH platform under immense disadvantageous position *vis-s-vis* OTT service providers.

### **A-3 NO TAXES INCLUDING ENTERTAINMENT TAX ON OTT VIDEO SERVICE PROVIDERS**

Additionally, such OTT Video Service Providers are also not under any taxation regime as they do not pay Entertainment Tax, Service Tax or any other tax of the like nature. We are of the view that this unregulated segment requires to be brought under an appropriate regulatory and licensing regime so as to create a level playing field between such OTT Video Service Providers and other similarly placed players.

It needs to be noted that on an average DTH player pays approximately 40% tax on our revenue to the Government by way of various taxes, including but not limited to entertainment tax to the State, Service Tax, license Fee to the Central Government. Additionally, DTH player also pays 12.5% Value Added Tax on hardware at the time of installation of DTH connection. These expenses are over and above the huge capital investment made by DTH Service Provider, who is already incurring huge losses and it is very difficult to financially sustain in this scenario.

Conversely, OTT service provider who provides the same audio and video feed to its subscribers on paid basis, does not have any such taxation regime which has till date

caused loss to the treasury of the Government worth thousands of crores. Their advertising revenue has doubled up over a period of time and there is no government control on the same. There is neither any registration process laid down for OTT players, nor are they under the umbrella of any legal and regulatory regime, which is unjust, unfair and illegal to say the least.

Latest platform Reliance Jio has services like Jio Music, Jio Cinema, Jio TV, Jio Mags, Jio Xpress News, Jio Chat, Jio4GVoice, JioMoney, Jio NewsPaper, AJio, JioHealthHub, JioSecurity, JioCloud, NetVelocity, JioNet, JioSwitch. Such transmissions of content on a smart-phone are totally unregulated and are not within the ambit of any taxation, though such platforms generate hefty revenue, both subscriptions as well as advertisement revenue. Thus, absence of any laws, rules and regulations for such platforms is entailing heavy loss of revenue for the government and simultaneously making the businesses of other platforms like DTH commercially unviable and unsustainable.

In view of the above apparent disparity it is high time the Authority recommends certain concrete measures in order to bring about all players on the same footing and thus create a level playing field.

#### **A-4 PIRACY THREATS**

It is also pertinent to note that piracy is another big threat to Digital Cable, MSOs and DTH, as if a particular movie is given for free to a OTT Video platform and such movie is made available on any given pirated site then it becomes difficult for Digital Cable, MSOs and DTH to sell such movie in the market. This is a simple example of revenue cannibalization. Unless OTT Video Services are brought within the purview of legal and regulatory regime, such threats will continue to prevail.

#### **A. PLATFORM SERVICES LIKE DIGITAL CABLE/MSO/DTH/IPTV ADVERSELY IMPACTED**

Platform services like Digital Cable, MSOs, IPTV and DTH are other service providers who provide numerous Channels and Services to their subscribers across the country. However, it is pertinent to note that they are able to do so only after incurring huge cost towards content acquisition from Broadcasters. It is a known fact that the rates at which Broadcasters provide their content to such Service Providers are unconscionable and un-imaginary. This content cost is over and above its huge capital investment at the commencement of the DTH business. Contrarily, Broadcasters do not charge from the OTT Video Service Providers and provide them their entire content, channels free of cost. This is totally arbitrary and needs to be regulated. Most of the dominant broadcasters in the market have their own OTT services and they generate huge subscription and advertisement revenue by giving content free of cost to their own OTT platform thereby adversely impacting other distribution platforms and making

their businesses economically unviable. Add to this other distribution platforms are burdened with hefty taxation when OTT platforms go scot-free.

### **B-1 REVENUE CANNIBALISATION**

Paradoxically, the Broadcasters who sell their content, channels and programs at cost to a DTH Operator offers same content, channels and programs free of cost to internet service provider or application owners. As a corollary, Broadcasters, internet service providers and application owners render themselves responsible for revenue degeneration for a DTH Service Provider. We would like to state that this is nothing short of **revenue cannibalization**. It is in this context that we would urge the authority to take into consideration the commercial in-equilibrium meted out to one player like a DTH Service Provider and huge and unjustified benefits showered/bestowed on other players like internet service provider or application owners. Absence of regulation has been the cause of such a lopsided scenario in the market. Competition is being killed in the market and dominant forces are having a free field for themselves.

In addition, OTT Video Service Providers usually do not incur costs towards Content or distribution of infrastructure as DTH Services. DTH Operators engaged in the distribution of PAY Tv DTH Services, are incurring loss as OTT Video Service Providers provide the OTT Video Services free of cost to customers thus allowing the OTT Video Players to “**free ride**” on the investments of their competitors.

India’s major broadcaster Star pulled off all its content from YouTube ahead of its own OTT launch via a new platform branded Hotstar during last year. The advertising supported service is an outlet for its highly rated Hindi entertainment, drama and reality shows, sports, and some of its regional content. The app has generated more than 5 million downloads during the two weeks following its launch and is already attracting advertisers targeting premium audiences. The real catalyst for Hotstar will be the back-to-back free live coverage of cricket’s largest properties - the ongoing ICC Cricket World Cup followed by IPL cricket tournament. Star won the digital rights for IPL seasons 2015 through 2017. Last year, Star India reached 30 million IPL viewers through starsports.com under a freemium model.

### **B-2 NEED FOR CREATION OF LEVEL PLAYING FIELD**

Broadcasters by creating their own websites which provide OTT Video Services are providing all channels, programs and content to such websites for public viewership free of cost. Contrarily, they provide the same content at huge cost to digital cable, MSO’s and DTH Service Providers.

Additionally, various broadcasters provide their content and channels to DD Free Dish, one of the DTH service providers, free of cost and many times by actually paying heavy carriage fee for carriage of their channels. The same feed and content is sold to other DTH platforms for heavy cost. This discrimination needs to be looked at deeply

and necessary steps need to be taken by the Authority to ensure there is a level playing field for all stakeholders/players. Broadcasters should be discouraged from discriminating between platforms and provide the same on similar terms and conditions.

Latest movies, live cricket matches, latest songs etc are being made available on various networks like YouTube, Hotstar.com, Starsports.com, Ditto Tv, Netflix, Bigflix, Eros Now, Box Tv, Sony Liv, Everywhere Tv, to one and all free of cost without these networks being required to pay anything towards either acquisition of the content or for distributing the same to general public. This act on their part is badly eating into the revenue generation capability of other players like Digital Cable, MSOs and DTH although they end up paying huge acquisition cost to broadcasters for the same content. This is required to be reigned.

It is also pertinent to note that whilst a service provider like DTH, MSO and Cable have been saddled with multiple taxation including entertainment tax, all OTT Video Service Providers have been unjustly left out of the purview of such taxation including entertainment tax. Taxing one platform providing entertainment and absolving another similarly placed platform is absolutely illegal and improper. We therefore state that bringing OTT Video Service Platforms under the ambit of entertainment tax would mitigate the regulatory and legal imbalances which currently prevail. Appropriate legal, taxation and regulatory regime for OTT Video Service Providers would create level playing field for similarly placed service providers.

We are of the view that it is high time we begin regulating the OTT Video Services being provided across the country by service providers. As you are aware in most countries regulatory framework for the treatment of OTT players is being deliberated and still there is no finality to any regulation as such. As a DTH Service Provider, we would want that the content, programs and services being provided on DTH Platform should not be made freely available by any internet service provider to public at large. Thus, a regulation prohibiting transmission of channels, programs and services through any other medium like internet or applications, should be introduced. This would ensure that the unregulated segment of OTT Video Service providers through internet or applications would be kept under control and prevent it from encroaching upon the rightful and legal domain of DTH Service Provider, in as much as a DTH Service Provider has to mandatorily purchase retransmission rights at huge costs from the Channel Owner or Broadcasters.

Paradoxically, the Broadcasters who sell their content, channels and programs at cost to a DTH Operator offers same content, channels and programs free of cost to internet service provider or application owners. As a corollary, Broadcasters, internet service providers and application owners render themselves responsible for revenue degeneration for a DTH Service Provider.

It is in this context that we would urge the authority to take into consideration the commercial in-equilibrium meted out to one player like a DTH Service Provider and huge and unjustified benefits showered on other players like internet service provider or application owners. Absence of regulation has been the cause of such a lopsided scenario in the market. If there are no regulations, it will lead to fragmentation as well as malpractices happening at a TSPs or OTT Service provider level. We therefore suggest that it will be ideal commence regulatory framework for OTT Services and adapt to changes in future.

We would further like to state that consumers at large are using more portable devices than ever, with a growing number of these mobiles getting internet connected. Device proliferation resulting in multiple OTT Video Services as well as other platforms providing non communication OTT Services has certainly culminated in demonstrating not only imbalances in the regulatory environment for different kinds of OTT Players but has shown total absence of substantive regulations for such operations in the country.

Additionally, as the Authority is aware that for want of any OTT related legal and regulatory framework many broadcasters/content owners have started their own OTT Platforms like Cricbuzz.com, I Tunes store, Google play, Hotstar.com/Starsprots.com, Netflix, Bigflix, Hungama.com, Spuul.com, Eros Now, Gaana.com, Box Tv, Saavn.com, SonyLiv, Ditto Tv, Everywhere Tv and provide their channels, content, programs and services to such OTT Platforms at no cost. However, these OTT Platform Services which are available to consumers at large free for some period of time and then getting pay and consumers are not aware of any outflow amount from his subscription to such apps, websites/portals.

Majority of consumers are ignorant about the fact that, OTT Video Services Providers initially offer for free and later move to freemium model whereby as a pricing strategy a version of product or service (typically a digital offering or application such as software, media, games or web services) is provided free of charge, but money (premium) is charged for proprietary features, capacity, functionality, or virtual goods etc. In India, like in the rest of the world the popularity of OTT Content and services has been steadily increasing. This kind of lop sided and illegal growth could prove to be a potential threat to conventional television service providers like Cable, DTH, HITS, MSOs etc. Consumer relationship with such OTT Video service provider is still far away from getting the protection of clear regulatory environment.

The need of the hour is to separate regulatory practices for OTT Video Services and for non communication OTT Services as are in vogue in Germany and France.

**Appropriate Legal, Taxation, and Regulatory regime for OTT Video Service Providers would create level playing field.**





