

13/4/09

To

Sh. N Parameswaran
Pr. Advisor (B&CS)
Telecom Regulatory Authority Of India
Mahanagar Doorsanchar Marg
Jawaharlal lal Nehru Marg
New Delhi – 110 002

Dear Sir,

Sub: ENIL's responses to the Consultation Paper on DTH Issues relating to
Tariff Regulation.

6.2.4 a. Whether carriage of radio channels by a DTH operator be permitted? Should such permission cover all kind of radio channels to be carried?

ENIL response:

Radio entertains and educates the masses. It extends the governments' mandate to create a better informed society. It has been diligently doing so for many years now in spite of the many problems which are plaguing its growth and sustainability:

- High level of regulation and restrictions.
- High infrastructural costs and OTEF.
- High operational costs and license fees.
- Unfair practices by other industry entities like the music producers, IPRS and PPL. The unresolved issues with them regarding royalty rates – which are currently very unreasonable and unrealistic, are hurting the FM industry very badly. E.g. There is no differentiation in the current music royalty rates between cities or town i.e. a private FM operator is paying the same rate of music royalty for Mumbai as well as Ahmednagar. This rate has been decided by the order of the Copyright Board in November 2002 and the matter is currently sub-judice. Practically, all the operators are succumbing to these rates, which is one of the highest in the world. Moreover, there is no single music body in our country unlike other countries which makes the resolution of this issue even more difficult.

Radio is free to air and generates revenue through advertising only. In an industry which is small and trying very hard to stay afloat, increasing the scope of the service in any way – be it reaching more geographies or reaching audiences by additional means – would be beneficial. If private FM is able to reach its audience on TV also, it would help increase its relevance to advertisers

and maybe make more advertising revenue. This incremental revenue could help the industry in fueling its huge cost requirements. **We therefore strongly urge that private FM should be allowed on DTH platforms.**

The radio industry is in need of help. We would be able to survive only if we become more significant to our advertisers with **limited incremental costs**. We have been therefore requesting the ministry of I&B and TRAI to take policy measures like including private FM in the priority sector lending of all banks and for government spending on private FM to be increased substantially.

Also as mentioned by the regulator unlike TV signals which are audio-video, radio signals are only audio in nature. This results in lower bandwidth requirement for carriage of radio signals and simpler reception equipments. The option of carriage of radio signals may not add any significant burden on the carrier capacity and on the transponder bandwidth.

Since the DTH service providers are not getting burdened by carrying radio signals and considering that the radio industry is in need to find means of growth from all quarters, **we recommend that FM radio be allowed on DTH platforms WITHOUT any carriage fees.**

Radio is consumed in a passive manner and compliments TV to fulfill the overall entertainment needs of the masses. Since it is not appointment based, the consumption patterns of radio are very different from TV. In spite of many new TV channels coming up each day, the average time of listening to Radio is being maintained. We believe that if Radio is available on DTH, it will increase the overall consumption time of the DTH service as it will compliment the TV viewing on DTH. Presence of radio channels on DTH will make their service more attractive to consumers and therefore will allow them to charge more. We recommend that depending on whether a radio channel decides to be FTA or a pay channel, **there should a revenue share (from subscriber revenue) that the DTH operators should pay to FM channels.** The value should be in line with what the TV broadcasters get from the DTH operators.

6.2.4 b. In case this is permitted, whether DTH license, Uplink/ Downlink guidelines, Conflict of business interest's conditions with existing radio system operators, should be amended keeping in view, the incumbent or new DTH operators?

6.2.4 c. If so, what changes are needed in the existing regulatory provisions so that the general policy of must provide and a non-discriminatory offering of channels be extended to between radio channels and DTH operators?

ENIL response:

1) FM radio generates revenue through advertising only. It is only 4% of the total advertising market in the country. To be able to generate this revenue, we have paid high OTEF and share 4% of our revenue with the government as revenue share. Compared to this, the policy measures for other radio platforms like satellite radio are very relaxed. As per TRAI recommendations, they would now enjoy much lower OTEF, provisional licensing for 4 years, and even

terrestrial repeaters would be allowed. We do not have a level playing field with satellite radio and runs at much lower costs than private FM. To make the cost structures fair and equitable to some extent we suggest that the OTEF for satellite radio be increased.

2) We suggest that the must carry clause in the DTH license agreement be extended to FM radio also. Thus there should be “non-discriminatory” transparent, predictable, fair, equal and unbiased treatment given to all FM players. This gains even more significance since some DTH operators already own business interests in the private FM space. If the “must carry” clause is not implemented, it would lead to an unfair advantage to such entities.

3) We would also like to draw the attention of the regulator to the fact that satellite radio is also a DTH service. It is radio equivalent of TV DTH. We suggest that like in the case of TV, the must carry clause be applicable to radio DTH also. Infact, since they carry only audio, the challenges associated with limited bandwidth resources are negligible for them. **Thus existing players in the satellite radio space should mandatorily carry private FM also.**

4) TRAI in its recommendations recently on cross media ownership has maintained that vertical integration in various parts of the broadcasting sector should not be allowed as it can lead to monopolization. It is with this perspective that 20% cap between cross holding between a broadcaster and a broadcasting platform like DTH has been maintained. The case of radio and DTH is no different. The same entity owning a FM radio channel and a DTH platform is a case of vertical integration. **The same restriction of cross holding should exist between a FM operator and a DTH operator.** This will make sure that there is a level playing field between various DTH operators (since some of them have FM radio interests and others don't) and the FM operators.

Yours truly,

Prashant Panday
CEO