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**Sub: Response to TRAI Consultation Paper on “Framework for Service Authorisations for provision of Broadcasting Services under the Telecommunications Act, 2023”**

Dear Sir,

Kindly find attached herewith response to TRAI Consultation Paper on “Framework for Service Authorisations for provision of Broadcasting Services under the Telecommunications Act, 2023” dated 30.10.2024.

Kind regards,  
For **AA+ Consultants**

Praveen Sharma  
Chief Executive Officer

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# AA Plus Consultants response to TRAI Consultation Paper on “Framework for Service Authorisations for provision of Broadcasting Services under the Telecommunications Act, 2023” dated 30th October, 2024

**Q1. Under Section 3(1) of the Telecommunications Act, 2023, the Applicant Entity may be granted an authorisation, in place of the extant practice of the grant of license/ permission from the Central Government. The terms and conditions governing the respective authorisation for broadcasting services may be notified by the Ministry of I&B as Rules to be made under the Telecommunications Act, 2023. In such a case, whether any safeguards are required to protect the reasonable interests of the Authorised Entities of the various broadcasting services? Kindly provide a detailed response with justifications.**

## **AA Plus Consultants Response:**

Section 3 of the Telecommunications Act, 2023 grants the power of authorisation to the Central Government. The Section 3 is reproduced below:

“3(1) Any person intending to —

(a) provide telecommunication services;

(b) establish, operate, maintain or expand telecommunication network; or

(c) possess radio equipment,

shall obtain an authorisation from the Central Government, subject to such terms and conditions, including fees or charges, **as may be prescribed.**

Under the Telecommunications Act, 2023, authorisation has been defined in the act as:

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“authorisation” means a permission, by whatever name called, granted under this Act for - (i) providing telecommunication services;

(ii) establishing, operating, maintaining or expanding telecommunication networks; or

(iii) possessing radio equipment;”

Under the earlier Indian Telegraph Act 1885 the first proviso to Section 4 gave the Central Government exclusive privilege in respect of telegraphs, and power to grant licenses and that the Central Government may grant a license, on such conditions and in consideration of such payments as it thinks fit, to any person to establish, maintain or work a telegraph within any part of India . So the earlier Act in way provided a license by way of a contract document between the Licensor and Licensee containing terms and conditions under which a license may be granted. Since it was a contract, there were obligations on the Licensor to treat the Licensee fairly. Later on , since the promulgation of TRAI Act 1997 as amended , the terms and conditions of any new license and changes thereto were required to be recommended by TRAI before the license agreement was finally decided by thw Licensor. Since TRAI was involved the terms and conditions were recommended after due consultation with all the stakeholders and there was a system of check and balance that terms and conditions of licenses cannot be changed abruptly or unilaterally by the Licensor. This also provided regulatory certainty which was required for attracting investment in the telecom services sector.

The new Telecommunications Act gives the Government power to issue authorization for various services subject to such terms and conditions, including fees or charges, **as may be prescribed.** This means that Authorization would be a permission document issued by the Licensor and not a contract/license document and terms and conditions of such Authorization would be prescribed by the Rule making power under the Telecommunications Act.

In our view, the system of check and balance which existed prior to Telecommunications Act in respect of terms and conditions, by whatever name the permission for provision of services is issued should be maintained. In other words, it needs to be ensured that terms and conditions of any Rules which determines terms of authorization should be issued post consideration of TRAI recommendations on the subject and any changes in the terms of the Rules should also be done with consultation of TRAI. This would ensure both regulatory certainty and system of check and balance and also ensure consultation of stakeholders while framing terms and conditions of Authorization including through Rules.

**Q2. The definitions to be used in the Rules to be made under the Telecommunications Act, 2023, governing the Grant of Service Authorisations and provisioning of the Broadcasting (Television Programming, Television Distribution and Radio) Services are drafted for consultation and are annexed as Schedule-I. Stakeholders are requested to submit their comments in respect of suitability of these definitions including any additions/ modifications/ deletions, if required. Kindly provide justifications for your response.**

**AA Plus Consultants Response:**

The proposed definition of Ground-Based Broadcasting in the consultation paper is: “Ground-Based Broadcasting” means providing programming services using **terrestrial communication medium** for delivering channels to the distributors of television channels.

We would request the Authority to add the specific terrestrial communication medium to ensure that there is no ambiguity regarding the mediums allowed to be used by Ground Based Broadcasters. The following may be the amended definition of Ground-Based Broadcasting per our recommendation.

“Ground-Based Broadcasting” means providing programming services using terrestrial communication medium like Fibre, broadband or cloud for delivering channels to the distributors of television channels.

**Q3. A preliminary draft of Scope of Service for various Broadcasting services and the corresponding Service Area is provided in Table 2.1 for consultation. Whether the same appropriately covers the Scope of Service and Service Area? If not, stakeholders are requested to submit their comments, if any additions/ modifications/ deletions are required in the Scope of Service and Service Area, along with necessary justifications.**

**AA Plus Consultants Response:**

We would like to suggest the addition of a Region-based Service Area for Ground Based Broadcasters. Ground based broadcasters are often performing the role for distribution of Regional Content which is specific to various group of States. This regional content may be specific in terms of language/relevance hence to promote ease of doing business and attract location specific advertisers such GBBs may be granted Region-based Service Area Authorisation.

**Q4. For the purpose of grant of authorisation under Section 3(1) of the Telecommunications Act, 2023, the Central Government may issue an authorisation document to the Applicant Entity containing the essential details viz. Name, Category and Address of entity, Scope of Service, Service Area, Validity etc. A draft format of authorisation document is given at Figure 2.2. Do you agree with the draft format or whether any changes are needed in the draft format of authorisation document? Please provide your response with necessary explanations.**

**AA Plus Consultants Response:**

We agree with the draft format provided by the Authority in the Consultation Paper.

**Q5. A preliminary draft of terms and conditions to be included in the first set of Rules i.e., for Grant of Service Authorisations is annexed as Annexure-II. Stakeholders are requested to submit their comments in the format provided below, against the terms and conditions and indicate the corresponding changes, if any, with necessary reason and detailed justification thereof.**

S.No.	Description	Terms and Conditions No.	Proposed changes, if any	Reasons with detailed justification
1.	Definitions	1.ii	“Ground-Based Broadcasting” means providing programming services using terrestrial communication medium like <b>Fibre, broadband or cloud</b> for delivering channels to the distributors of television channels.	To ensure that there is <b>no ambiguity</b> regarding the mediums allowed to be used by Ground Based Broadcasters
2.	Scope of Service and Service Area	1.ii	National/State/Region	Ground based broadcasters are for distribution of Regional Content which is specific to various different states. This regional content may be specific in terms of language/relevance hence to promote ease of doing business and attract location specific advertisers.
3.	Eligibility Conditions			

**Q6. Draft structure for covering terms & conditions for provision of services after grant of authorisations to be included in the second set of Rules, namely, The Broadcasting (Television Programming, Television Distribution and Radio) Services Rules, is shown in Figure 2.4 above for consultation. Whether changes are required in the said structure? Please support your response with proper justification.**

**AA Plus Consultants Response:**

No, the draft structure provided by the authority in Figure 2.4 for covering terms & conditions for provision of services after grant of authorisations to be included in The Broadcasting (Television Programming, Television Distribution and Radio) Services Rules seems to be sufficient.

**Q7. The two possible approaches for migration from the existing regime of license/ permission to the authorisation framework under the Telecommunications Act, 2023, has been discussed in the Section D of Chapter II. Which of these two or any other approach should be adopted for migrating the existing licensee/ permission holders to the service authorisation framework? Stakeholders are requested to provide their comments with detailed justifications.**

**AA Plus Consultants Response:**

First approach i.e. “An online application requesting for migration may be provided, along with surrender/ submission of the existing license/ permission. This process may not incur any additional fees, such as processing or entry fees etc. In such a scenario, the remaining validity period of the existing service provider may be migrated to the authorisation framework. All terms and conditions for service provisioning may be governed by the rules made under the Telecommunications Act, 2023.” should be adopted for migrating the existing licensee/permission holders to the service authorisation framework.

It would create an open and clearer migration path with no additional fees being incurred by the Entities. It would also allow the remaining validity period of the current license/permission to be migrated to the new authorisation. Rules made under the Telecommunications Act, 2023 are forward looking and having all terms and conditions governed by these rules would make it easy for the existing service providers to migrate to the new service authorisation framework.

**Q8. Contravention of the terms and conditions contained in the Rules to be made as well as non-adherence to the Programme Code and Advertising Code is likely to invite penal provisions.**

**a. Whether the extant penal provisions for breach of terms and conditions of license/ permission are appropriate or required to be modified to align with the provisions of the Telecommunications Act, 2023? If so, please provide a detailed response with justifications. If not, whether the same should be adopted mutatis mutandis? Please provide a detailed response with necessary justifications.**

**b. Further, in respect of violation of Programme Code and Advertising Code, whether the penal provisions should be adopted mutatis mutandis? If not, what modifications are required? Please provide your comments with necessary justifications.**

**AA Plus Consultants Response:**

- a. In our view, the penal provisions for breach of terms and conditions require to be modified to align with the provisions of the Telecommunications Act, 2023. The penal provisions for breach of terms and conditions in the Telecommunications Act, 2023 is as follows:

<b>Categorisation</b>	<b>Civil Penalty</b>
Severe	Up to Rs. 5 crore
Major	Up to Rs. 1 crore
Moderate	Up to Rs. 10 lakh
Minor	Up to Rs. 1 lakh
Non-severe	Written warning

In these provisions, there is an option to penalize the offender as per the severity of the breach whereas, in the extant license/permission, there is no such provision which allows for the same. It also ensures that if an entity is blatantly ignoring the terms and conditions with the full understanding of the same, it could be penalized to the degree adjudged by the adjudicating officer.

b. In the case of violation of Programme Code and Advertising Code, the penal provisions should be adopted mutatis mutandis. The penal provisions provided under the Cable Television Networks (Regulation) Act, 1995 seem to be sufficient for the same.

**Q9. A preliminary draft of Common terms and conditions for inclusion in the second set of Rules for Broadcasting (Television Programming, Television Distribution and Radio) Services is annexed as Part-I of Annexure-III for consultation. Stakeholders are requested to submit their comments in the format given below, against the terms and conditions and indicate the corresponding changes, if any, with necessary reason and detailed justification thereof.**

**AA Plus Consultants Response:**

The draft of common terms and conditions for inclusion in the second set of Rules for Broadcasting (Television Programming, Television Distribution and Radio) Services is sufficient in our view.

**Q10. Whether any changes are required in the extant eligibility conditions in respect of minimum net worth for inclusion in the Rules to be made under the Telecommunications Act, 2023 for the following service authorisations?**

- i. News & Current Affairs Television Channel**
- ii. Non-news & Current Affairs Television Channel**
- iii. Teleport/ Teleport Hub**

**Stakeholders are requested to provide their comments with detailed justification.**

**Q11. Whether any changes are required in the extant processing fee (for new authorisation/renewal), annual authorisation fee (erstwhile annual permission fee) and other fees applicable on the following for the formulation of the terms and conditions of the authorisation for these services?**

- i. Uplinking of a Television Channel**
- ii. Downlinking of a Television Channel**
- iii. News Agency for Television Channel(s)**
- iv. Teleport/ Teleport Hub**
- v. Any other services related to Television Channels**

Stakeholders are requested to provide their comments with detailed justification.

**Q12. Whether any changes are required in the extant security deposit and performance bank guarantee applicable on the following for the formulation of the terms and conditions of the authorisation for these services?**

i. Uplinking of a Television Channel

ii. Downlinking of a Television Channel

iii. Teleport/ Teleport Hub

iv. Purchase/hiring and use of SCG equipment

Stakeholders are requested to provide their comments with detailed justification.

**AA Plus Consultants Response:**

Following are the recommendations according to the extant Uplinking downlinking guidelines of 2022:

<b>Broadcaster/ Teleport</b>	<b>Processing Fee (in Rs.)</b>	<b>Minimum Net Worth (in Rs.)</b>	<b>Performance Bank Guarantee (in Rs.)</b>	<b>Processing fee for Renewal (in Rs.)</b>	<b>Annual Permission Fee (in Rs.)</b>	<b>Security Deposit (in Rs.)</b>
<b>Uplinking of News and Current Affairs Channel</b>	10,000 per channel	1 <sup>st</sup> channel: 20 cr. Additional channel :5 cr.	2 cr./ channel	10,000 per channel	2 lakh/ channel	4 lakh
<b>Uplinking of Non-News and Current Affairs Channel</b>	10,000 per channel	1 <sup>st</sup> channel: 5 cr. Additional channel: 2.5 cr.	1 cr./ channel	10,000 per channel	2 lakh/ channel	4 lakh
<b>Downlinking of News and Current Affairs Channel</b>	10,000 per channel	1 <sup>st</sup> channel: 20 cr. Additional channel :5 cr.	Not Prescribed	10,000 per channel	From India-5 lakh/ channel	From India-10 lakh/ channel
<b>Downlinking of Non-News and Current Affairs Channel</b>	10,000 per channel	1 <sup>st</sup> channel: 5 cr. Additional channel: 2.5 cr.	Not Prescribed	10,000 per channel	Outside India-15 lakh/ channel	Outside India-30 lakh/ channel
<b>Teleport</b>	10,000 per teleport	1 <sup>st</sup> channel: 3 cr. Additional channel: 1 cr.	25 lakh/ teleport	10,000 per teleport	2 lakh/ teleport	4 lakh/ teleport
<b>News Agency</b>	10,000	Not Prescribed	Not Prescribed	10,000	Not Prescribed	Not Prescribed
<b>DSNG/SNG</b>			10 lakh/ van	Not Prescribed		

In our view, the amount set by the Ministry of Information & Broadcasting should be sufficient for all the categories given above.

**Q13. A preliminary draft of terms and conditions for inclusion in the second set of Rules for Broadcasting (Television Programming) Services is annexed as Part-II of Annexure-III for consultation. Stakeholders are requested to furnish their comments in the specified format given below, against the terms and conditions and indicate the corresponding changes, if any, with necessary reason and detailed justification thereof.**

**AA Plus Consultants Response:**

The draft of terms and conditions for inclusion in the second set of Rules for Broadcasting (Television Programming) Services is sufficient in our view.

**Q14. Whether the extant eligibility requirement in respect of minimum net worth is required to be harmonized under the terms and conditions of authorisation for DTH and HITS services?**

- a. If yes, what should be the quantum of minimum net worth for these services?
- b. If no, reasons thereof. Stakeholders are requested to provide their comments along with detailed justification.

**AA Plus Consultants Response:**

Yes, the extant eligibility requirement in respect of minimum net worth is required to be harmonized under the terms and conditions of Authorisation for DTH and HITS Service. Since DTH and HITS are a pan India operation, they require huge investments to roll out their services. The minimum net worth for HITS is Rs.10 Cr presently. We would like to suggest the rationalization of required net worth to be reduced to Rs.5 Cr for HITS and the same minimum net worth of Rs.5 Cr to be required for DTH to promote entry of new service providers whilst ensuring only serious players apply for the authorisation.

**Q15. Whether the following parameters applicable for DTH and HITS services should be reviewed while framing the terms and conditions of authorisation for these services? If yes, please suggest changes required, if any, on the following aspects, with detailed justifications:**

- a. Period of authorisation (erstwhile license/ permission)
- b. Processing Fee
- c. Entry Fee
- d. Authorisation Fee (erstwhile License Fee)
- e. Bank Guarantee
- f. Renewal Fee

**AA Plus Consultants Response:**

Following are the suggestions regarding these parameters:



<b>Parameters</b>	<b>DTH</b>	<b>HITS</b>
<b>Processing Fee</b>	Not prescribed	1 lakh
<b>Entry Fee</b>	10 cr.	10 cr.
<b>Net-worth</b>	Not prescribed	10 cr.
<b>License Fee</b>	8% of AGR	Not prescribed
<b>Bank Guarantee</b>	5 cr. Initial, thereafter LF of 2 qtr.	40 cr. Valid for 3 years
<b>Validity Period (in years)</b>	License Period: 20	Permission Period: 10
	Renewal: 10	

- a. Period of Authorisation: In our view, the validity period of both DTH and HITS should be 20 years with a renewal period of 10 years.
- b. Processing Fee: The processing fee of HITS should be lowered to Rs.15,000 and the same should be applied to DTH service providers.
- c. Entry Fee of Rs.1 Cr should be sufficient for both HITS and DTH Service Providers.
- d. Authorisation Fee should be lowered for DTH services to 1% of AGR for the next three years and reduced to zero thereafter.
- e. Bank Guarantee should be Rs. 1 Crore for both HITS and DTH service providers.
- f. No renewal fee should be applied on either HITS or DTH Service Providers.

**Q16. A preliminary draft of terms and conditions for inclusion in the second set of Rules for Broadcasting (Television Distribution) Services in respect of Distribution Services (DTH/ HITS), is annexed as Part-III of Annexure-III for consultation. Stakeholders are requested to render their comments in the format specified in the table given below, against the terms and conditions and indicate the corresponding changes, if any, with necessary reason and detailed justification thereof.**

**AA Plus Consultants Response:**

With reference to our response to Q.15, we would like to suggest the same changes to Authorisation Fee and Bank Guarantee as above. Other than these changes, we agree with the preliminary draft of terms and conditions for inclusion in the second set of Rules for Broadcasting (Television Distribution) Services in respect of Distribution Services.

**Q17. The extant IPTV guidelines dated 08.09.2008 may be required to be amended to align with the provisions of the Telecommunications Act, 2023. A preliminary draft of terms and conditions for providing IPTV Services is annexed as PartIII of Annexure-III for consultation. Stakeholders are requested to provide their comments including addition/ modification/ deletion required, if any, with detailed justification.**

**AA Plus Consultants Response:**

We agree with the Authority that the extant IPTV guidelines dated 08.09.2008 may be amended as the drafted terms and conditions for providing IPTV services annexed as Part III of Annexure-III of the present consultation paper.

**Q18. Is there a need to review the minimum net worth requirement of Rs. 100 crore for ISPs to provide IPTV services, while framing the terms and conditions for provision of IPTV services in the new authorisation regime and whether it should be aligned with the terms and conditions of authorisation of Internet Services by Department of Telecommunications? Please provide your comments with detailed justification.**

**AA Plus Consultants Response:**

Yes, in our view there is a need to review the minimum net worth requirement of Rs. 100 crore since the requirement for the net worth of Rs. 100 crore for ISPs is no longer applicable in the Unified License as per DoT and ISPs are allowed to provide IPTV as per their scope, the same needs to be adopted by the MIB.