

Ref: AIDCF/FY 24-25/32

Date: 27th November 2024

To,

Shri Deepak Sharma
Advisor (B&CS),
The Telecom Regulatory Authority of India
4th Floor, Tower, F, World Trade Centre
Nauroji Nagar, New Delhi 110029

Sub: AIDCF inputs reg. Consultation Paper on Framework for Service Authorisations for provision of Broadcasting Services under the Telecommunications Act, 2023

Respected Sir,

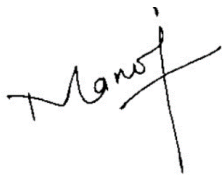
This is with reference to aforementioned consultation paper on Framework for Service Authorisations for provision of Broadcasting Services under the Telecommunications Act, 2023 dated 30th October 2024.

In this regard, please find our question wise response for your kind perusal attached as Appendix 1.

Thanking You.

Yours Sincerely,

For, **ALL INDIA DIGITAL CABLE FEDERATION**



Manoj P. Chhangani
Secretary General -AIDCF



Appendix 1

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.

Response:

Rectification of regulatory imbalance - Creation of Level Playing Field

In today's digital landscape, users access similar media and content services through a variety of platforms and technologies. Television channels and content are now delivered not only via traditional methods such as DTH, HITS, and Cable TV but also through newer mediums like IPTV and Over-the-Top (OTT) services utilizing fixed, mobile, or fixed wireless access networks. Despite offering comparable services, these platforms rely on distinct technologies and infrastructure, creating significant differences in their operational frameworks.

To ensure fair competition and promote industry growth, the regulatory framework must be designed to foster a level playing field. This requires a comprehensive assessment of the broadcasting and telecommunications sectors to address disparities and establish equitable rules for all service providers, irrespective of their delivery medium.

(i) Unfair Advantage to Spectrum based service providers

A significant area of disparity lies in the preferential advantages enjoyed by service providers utilizing spectrum in both the broadcasting and telecommunications sectors. Spectrum-based service providers benefit from the advantages provided, giving them a competitive edge over those not using spectrum. This imbalance arises because spectrum, a valuable and limited national resource, is not uniformly accounted for in the cost structures of different service providers.

To ensure a truly level playing field, the regulatory framework must address this disparity by factoring in the value of spectrum, benchmarked against market-determined rates. Mechanisms for spectrum cost recovery should be instituted, whether through upfront payments, periodic license fees, or spectrum usage charges (SUC). Such measures would not only promote fairness but also optimize the utilization of spectrum as a critical public resource, fostering equitable competition across all mediums of content delivery.

In the proposed framework, DTH services, which utilize spectrum at no cost, are being considered for a license fee waiver, whereas fixed-line service providers – who do not enjoy similar spectrum-related benefits – are still required to pay a license fee to the government. Adding to this imbalance, mobile operators in the wireless domain, who provide IPTV and

content services, must procure spectrum through competitive auctions, incurring substantial costs in the form of spectrum usage charges and license fees.

Granting a waiver or reduction in the license fee for DTH services (*as has been proposed in this Consultation Paper and further discussed in answer to Question 15*) would amplify this disparity, creating an uneven playing field. Such a move would unfairly tilt the competitive landscape further in favour of DTH providers, undermining the principles of fair competition and equitable regulatory treatment across service categories.

(ii) Encryption of Private Channels on DD Free Dish

With a view to prevent unauthorized re-transmission of television channels and maintain the record of subscribers, TRAI in its 08 July 2024 recommendations recommended Prasar Bharati to take steps to convert DD Free Dish platform from a non-addressable system to an addressable system and begin by encrypting the signals of private satellite television channels at DD Free Dish headend before uplinking.

Despite TRAI's recommendation there appears to have been no tangible progress on this front. As of now, there is no indication or evidence of any steps being taken by Prasar Bharati to implement these recommendations, raising concerns about the delay in addressing unauthorized re-transmissions and ensuring subscriber accountability.

(iii) Regulatory Parity for DD Free Dish as a DTH Service Provider

Prasar Bharati, through DD Free Dish, operates as a DTH service provider. This has not only been acknowledged by the courts (*TDSAT ruling upheld upto Hon'ble Supreme Court of India*) but also by Prasar Bharti's own their website. As such, it functions within the same domain as private DTH operators and provides a comparable service to consumers.

While the public service mandate of DD Free Dish is acknowledged, this should not exempt the platform from adhering to the regulatory framework established for DTH services. Such exemptions not only create an imbalance in the market but also lead to revenue losses for the exchequer.

Accordingly, it is essential that Prasar Bharati adheres to the same regulatory obligations that govern private DTH operators, including the payment of licensing fees, renewal fees, and compliance with other associated regulations. This alignment is necessary to ensure a level playing field in the broadcasting industry, promote fair competition, and uphold the principle of regulatory equity.

Preventing Regulatory Disruption

(i) Ensuring Stability and Certainty

The transition to a new authorization framework under the Telecommunications Act, 2023 must prioritize regulatory stability and certainty to foster confidence among stakeholders and

ensure the continued growth of the sector. A critical aspect of this transition is the need to strike a balance between unifying the regulatory framework and retaining provisions that have proven effective over time.

In an effort to bring diverse regulatory regimes under one umbrella, it is crucial to avoid introducing untested provisions or unnecessary changes that could undermine the stability built over years of consultation and refinement. Many of the existing provisions in the current licensing frameworks have been shaped through significant stakeholder engagement, detailed regulatory processes, and extensive experience in addressing sector-specific challenges. These time-tested provisions provide a solid foundation for ensuring smooth operations and must not be discarded or diluted without compelling justification.

Instead, any modifications to the framework should focus on addressing specific gaps, improving clarity, and ensuring seamless integration across service categories. Essential changes that align with the evolving needs of the industry and benefit all stakeholders should be prioritized, while preserving the regulatory certainty that businesses rely on for investment and operational planning. **By retaining provisions that have demonstrably worked well and introducing only essential updates, the new authorization framework can achieve its goal of unifying the sector without causing unnecessary disruptions.**

(ii) **Continuity in Regulatory Practices Amid Terminological Changes**

The consultation paper highlights the transition from the term 'license' under the old Act to 'authorisation' in the new Telecommunications Act, 2023, noting that 'authorisation' has been defined in the new Act as granting permission to provide telecommunication services. Based on this change in terminology, the paper suggests discontinuing the current practice of incorporating the terms and conditions of the license within the license document.

We respectfully disagree with this interpretation. The concept of granting permissions is not a novel idea introduced by the term 'authorisation.' It has always been an inherent aspect of the term 'license' under the old Act. Both terms, in essence, serve the same purpose of regulating service provision through permission-based frameworks. Thus, the mere change in terminology between the two Acts should not be misconstrued as necessitating a fundamental change in the existing framework or practices.

Proven practices developed over years of regulatory experience and stakeholder consultation have provided stability and clarity to the sector. Disrupting these practices on the basis of an overstated distinction between 'license' and 'authorisation' risks creating unnecessary regulatory uncertainty, which could destabilize the industry and hinder its growth. A cautious approach is therefore essential to ensure continuity and stability in the regulatory framework while implementing the new Act. *(This point is further elaborated in responses to Question 3 and Question 4).*

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.

Response:

In reference to 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, as contained in Schedule I of the Consultation Paper, comments, if any, are appended in the ‘Remarks’ column in the below table.

Defn. No.	Definition	Remarks
1	<i>“Addressable system” means an electronic device (which includes hardware and its associated software) or more than one electronic device put in an integrated system through which transmission of programmes including re-transmission of signals of television channels can be done in encrypted form, which can be decoded by the device or devices at the premises of the subscriber within the limits of the authorization made, on the choice and request of such subscriber, by the distributor of television channels;</i>	-
2	<i>“authorisation” means a permission, by whatever name called, granted under the Telecommunications Act, 2023 for – (i) providing telecommunication services; (ii) establishing, operating, maintaining or expanding telecommunication networks; or (iii) possessing radio equipment;</i>	-
3	<i>“Authorisation Fee” means a fee payable by Authorised Entity at prescribed intervals and rates for the period of the authorisation;</i>	-
4	<i>“Authorised Entity” means a person holding an authorisation under Telecommunications Act, 2023;</i>	-
5	<i>“broadcaster” means a person or a group of persons, or body corporate, or any organization or body who, after having obtained, in its name, authorization from the Central Government for its channels, is providing programming services;</i>	-
6	<i>“Broadcasting Services” means the dissemination of any form of communication like signs, signals, writing, pictures, images, videos and sounds of all kinds by transmission of electromagnetic waves through space or through cables intended to be received by the general public either directly or indirectly and all its grammatical variations and cognate expressions shall be construed accordingly;</i>	-

7	<i>“Cable Television Service” means the transmission of programmes including re-transmission of signals of television channels through cables;</i>	“Cable Television Service” means the transmission of programmes including re-transmission of encrypted signals of television channels through cables;
8	<i>“Cable Television Network” or “Cable Television Network” means any system consisting of a set of closed transmission paths and associated signal generation, control and distribution equipment, designed to provide cable television service for reception by multiple subscribers;</i>	-
9	<i>‘Central Government’ shall refer to the President of India acting through any authorised officer;</i>	-
10	<i>“Company” means a company incorporated under the Companies Act, 1956 or 2013;</i>	-
11	<i>“Designated Partner” means a person as defined in clause (j) of section 2 of the Limited Liability Partnership Act, 2008;</i>	-
12	<i>“Devotional Channel” means a television channel, which predominantly broadcasts devotional/spiritual/yoga content, as identified by the Ministry of Information and Broadcasting;</i>	-
13	<i>“Director” of a company means a Managing Director, Whole time or Executive Director but does not include an Independent Director, as per the Companies Act, 1956 or 2013;</i>	-
14	<i>“Distribution services” means distribution service within their respective scope of services provided by a DTH operator, HITS operator, Every Permission Holder shall maintain separate financial accounts for each Channel</i>	-
15	<i>“Distribution Service Provider” shall include DTH operator, HITS operator, IPTV operator or Multi-System Operator (MSO);</i>	-
16	<i>“DTH” (Direct-to-Home) service means re-transmission of signals of television channels, by using a satellite system, directly to subscriber’s premises without passing through an intermediary such as local cable operator or any other distributor of television channels;</i>	-
17	<i>“Effective Radiated Power (ERP)” is the product of the transmitter output power and Antenna gain relative to half wave dipole;</i>	-
18	<i>ECG (Electronic Content Gathering) refers to use of electronic technologies that allows a reporter or a representative of television Channel to gather and provide the content to broadcaster from remote locations outside the television studio using terrestrial communication medium viz. cellular network/ internet/ leased line or any other medium/ equipment, excluding SCG;</i>	-
19	<i>“Entry Fee” means a non-refundable fee required to be paid by the applicant entity for obtaining Authorisation to provide Authorised Services in a Service Area;</i>	-
20	<i>“Financial year” means the period starting from 1st April of a year and ending on the 31st day of March of succeeding year;</i>	-

21	<i>“Ground-Based Broadcasting” means providing programming services using terrestrial communication medium for delivering channels to the distributors of television channels”;</i>	<i>“Ground-Based Broadcasting” means delivery of programme / providing programming services in the form of channels excluding satellite-based broadcasting only to the licensed distribution platform operators, and the expression ‘Ground-based Broadcaster’ shall be construed accordingly.</i>
21A	<i>“Ground-based channels” means channels transmitted on LCO, MSO, DTH, HITS & IPTV but excluding satellite channels, Platform services, any channel of Prasar Bharati or any channel operated by or on behalf of Parliament of India.</i>	Definition of Ground based channel is also added. Ground based channels are not limited on Cable Broadcasting network and IPTV network, where they are also provided on DTH & HITS also. Therefore, definition should be inclusive of all the operators
22	<i>“HITS (Head end in the sky) service” or “HITS service” means transmission of programmes including re-transmission of signals of television channels either to intermediaries like local cable operators or multi-system operators or to the subscribers by using satellite system and its own cable networks;</i>	-
23	<i>“IPTV” (Internet Protocol Television) service (or technology) is a convergence service (or technology) of the telecommunications and broadcasting through QoS controlled Broadband Convergence IP Network including wire and wireless for the managed, controlled and secured delivery of a considerable number of multimedia contents such as Video, Audio, data and applications processed by platform to a user via Television, PDA, Cellular, and Mobile television terminal with STB module or similar device;</i>	-
24	<i>“Key Managerial Personnel” means a person defined under sub- section (51) of section 2 of the Companies Act, 2013;</i>	-
25	<i>“LLP” means a Limited Liability Partnership firm registered under the Limited Liability Partnership Act, 2008;</i>	-
25A	<i>“Linear broadcasting services” means any broadcasting service where the channels or programmes provided by broadcasters are offered to subscribers by broadcasting network operators in a linear manner, only through cable broadcasting networks, satellite broadcasting networks and IPTV.</i>	Definition of Linear Broadcasting services is also important and therefore needs to be added.
25B	<i>“Local Cable Operator” or “LCO” means a person who receives the programme signals from MSO or HITS operator or IPTV and provides broadcasting services through a cable broadcasting network to subscribers, or otherwise controls or is responsible for the management and operation of a cable broadcasting network and fulfils the prescribed eligibility criteria and conditions.</i>	Definition of local cable operator services is also important and therefore needs to be added.

26	<i>“Multi-System Operator” or ‘MSO’ means a cable operator who has been granted registration under rule 11 of the Cable Television Networks Rules, 1994 and who receives a programming service from a broadcaster and re-transmits the same or transmits his own programming service for simultaneous reception either by multiple subscribers directly or through one or more local cable operators;</i>	-
27	<i>“National channel” means a television channel other than a regional channel or a devotional channel;</i>	-
28	<i>“News channel” means a Radio/ television channel, which predominantly broadcasts news and current affairs content programmes;</i>	-
29	<i>“Non-news channel” means a Radio/ television channel other than a news channel;</i>	-
30	<i>“SMC” means SATCOM Monitoring Centre, erstwhile NOCC – Network Operation Control Centre;</i>	-
31	<i>“Non-operational channel” means a channel, whose signal is not being broadcast in India for a continuous period of sixty days, other than for reasons of suspension by the Ministry;</i>	-
31A	<i>“Over-the-top broadcasting service” or “OTT broadcasting service” means a broadcasting service where curated programmes, other than news and current affairs owned by, licensed to or contracted to be transmitted by a person, are made available on-demand including but not limited to subscribers, through a website, social media intermediary, or any other online medium, as part of a systematic business, professional, commercial activity.</i>	Definition of OTT Services /On demand services added from the Broadcasting Services Bill.
32	<i>“Platform Services” are programme transmitted by the Distribution Service Provider(s) exclusively to their own subscribers and shall not include Doordarshan channels or any other permitted television channels;</i>	<i>“Platform Service” means programs Programme, including advertisements transmitted by DPOs, to their own subscribers and does not include Doordarshan channels, registered television channels, ground-based channels, Parliament channels or foreign television channels that are not registered in India.</i>
33	<i>“Person” shall include an individual, any company or association or body of individuals, whether incorporated or not, by whatsoever name called or referred to;</i>	-
34	<i>“Programme” means any Radio/ Television broadcast and includes-</i> (i) <i>exhibition of films, features, dramas, advertisements and serials;</i> (ii) <i>any audio or visual or audio-visual live performance or presentation; and the expression “programming service” shall be construed accordingly;</i>	<i>“Programme” means any television broadcast and includes-</i> i) <i>exhibition of films, features, dramas, documentaries, advertisement and serials;</i> ii) <i>News & current affairs, Non-news & current affairs, educational content</i>

		iii) any audio or visual or audio-visual live performance or presentation, and the expression “programming service” shall be construed accordingly;”
35	“ Public entity ” means (a) the Central Government, (b) State Governments, (c) Local Authority, (d) Any Authority, body, company or institution incorporated or established by the Central Government or the State Government, under any statute, or I any non-government entity vested with the ownership, control or management of any public facility or class of public facilities, as notified by the Central/ State Government;	-
36	“ Radio equipment ” means telecommunication equipment used or capable of use for telecommunication by means of Hertzian or electromagnetic or radio waves;	-
37	“ Radio waves ” means electromagnetic waves of frequencies propagated in space without any artificial guide;	-
38	“ SACFA ” shall mean the “Standing Advisory Committee on Radio Frequency Allocation”;	-
39	“ SCG (Satellite Content Gathering) ” refers to use of satellite based electronic technology/equipment that allows a reporter or a representative of TELEVISION Channel to gather and provide the content to broadcaster from remote locations outside the TELEVISION studio;	-
40	“ Service Provider ” means entity authorised to provide services under Section 3(1) of the Telecommunications Act, 2023;	-
41	“ Set Top Box ” or “ STB ” means a device, which is connected to or is part of a television receiver and which enables a subscriber to view subscribed channels;	-
42	‘ Shareholding pattern ’ means the number of equity shares of a company held by various shareholders;	-
43	“ Spectrum ” means the range of frequencies of Hertzian electromagnetic or radio waves;	-
44	“ Subscriber Management System ” means a system or device which stores the subscriber records and details with respect to name, address and other information regarding the hardware being utilized by the subscriber, channels or bouquets of channels subscribed by the subscriber, price of such channels or bouquets of channels as defined in the system, the activation or deactivation dates and time for any channel or bouquets of channels, a log of all actions performed on a subscriber’s record, invoices raised on each subscriber and the amounts paid or discount allowed to the subscriber for each billing period;	-
45	“ TEC ” means Telecom Engineering Centre, an arm of Department of Telecommunications, Government of India;	-
46	“ Teleport ” means an earth station facility from where multiple television channels carrying audio, video content can be uplinked	-

	<i>to a geostationary satellite on permitted frequency band as per the provisions of section 4 of the Telecommunications Act, 2023;</i>	
47	<i>"Teleport Hub" means set-up of teleports for uplinking of television channels, where multiple antennas are installed for two or more satellites;</i>	-
48	<i>"Television channel" means a channel, which has been granted authorisation by Central Government for broadcasting services under the rules issued or amended from time to time and reference to the term 'channel' shall be construed as a reference to "television channel".</i>	-
49	<i>"TRAI" means Telecom Regulatory Authority of India constituted under the Telecom Regulatory Authority of India Act, 1997 as amended from time to time;</i>	-
50	<i>"WPC" means Wireless Planning and Coordination Wing of the Ministry of Communication, Department of Telecommunication, Government of India;</i>	-
51	<i>All other words and expressions used in the Broadcasting (Grant of Service Authorisations) Rules but not defined, and defined in the Telecommunications Act, 2023 and rules and regulations made thereunder or the Cable Television Networks (Regulation) Act, 1995 (7 of 1995) and the rules and regulations made thereunder, shall have the meanings respectively assigned to them in those Acts or the rules or regulations, as the case may be.</i>	-

Scope and Service Area

- 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.**

Authorisation Document

- 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.**

Response:

As has been mentioned in response to Question 1, we respectfully disagree with discontinuing the current practice of incorporating the terms and conditions of the license within the license

document. We believe that there is no justification for issuing authorizations in the form of standalone documents containing only essential details.

The current framework and practices, which have evolved over years of stakeholder engagement and regulatory refinement, should be retained within the new authorization regime. These practices have effectively served the broadcasting sector, ensuring stability and consistency.

For instance, licenses or permissions for broadcasting services such as DTH, HITS, and Teleports are currently granted through detailed contractual agreements. This contractual framework offers service providers a level of security by protecting them against arbitrary modifications to the terms and conditions of their licenses. Discarding these established mechanisms without any demonstrated need would create unnecessary regulatory uncertainty and disrupt the confidence of stakeholders.

The concept of granting permissions is not new. The term "license," as used under the previous regulatory framework, inherently includes the notion of permission. By definition, a license grants official permission to perform an act that would otherwise be impermissible, wrongful, or illegal. The dictionary meaning of "license" is "to give someone official permission to do or have something," while its legal definition describes it as a formal authority granted by a constituted body to legitimize actions otherwise not allowed.

Further, the Section 59 of the Telecommunications Act, 2023 provides for amendment to the TRAI Act, 1997 for the definitions of licensee and licensor in the following manner:

"licensee" means an authorised entity providing telecommunication services under the Telecommunications Act, 2023, or registered for providing cable television network under the Cable Television Networks (Regulation) Act, 1995 or any other Act for the time being in force;"

"licensor" means the Central Government which grants an authorisation for telecommunication services under the Telecommunications Act, 2023, or registration under the Cable Television Networks (Regulation) Act, 1995 or any other Act for the time being in force;"

The above definitions imply that Act does not intend to make any distinction between the license and authorisation as the licensee and licensor have been respectively defined as the authorised entities and the Central Government, which grants authorisation.

Therefore, the difference in terminology between "license" and "authorization" is semantic rather than substantive. Introducing unnecessary structural changes based solely on a perceived difference in terminology risks creating ambiguity and regulatory instability. It is crucial to preserve the proven and effective practices under the existing framework to ensure continuity, clarity, and confidence in the regulatory environment.

Terms and Conditions for Grant of Service Authorisations

- 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.**

Response:

In reference to draft terms and conditions to be included in the Rules for Grant of Service Authorisation, as contained in Annexure II of the Consultation Paper, comments, if any, are appended in the 'Proposed Changes' and 'Reasons' column in the below table.

S. No.	Description	T&C No.	Proposed changes, if any	Reasons with detailed justifications
1	Definitions	-	Answered separately in Question 2.	-
2	Scope of Service and Service Area	-	Answered separately in Question 3 and Question 4.	-
3	Conditions for Broadcasting (Television Programming, Television Distribution and Radio) Services	3 (a) (4)	Answered separately in Question 10 and Question 14.	-
	Eligibility Conditions specific to Uplinking of a Television Channel	3 (b)	No changes proposed.	The provisions are entirely analogous to Clauses 6 (b), 6 (g), 6 (h) and 6 (i) of MIB's 2022 'Guidelines for Uplinking and Downlinking of Satellite Television Channels in India'.
	Eligibility Condition specific to Downlinking of a Television Channel	3 (c)	No changes proposed.	The provisions are entirely analogous to Clauses 10 (1) (iii), 10 (1) (vi) and 10 (1) (viii) of MIB's 2022

					'Guidelines for Uplinking and Downlinking of Satellite Television Channels in India'.
		Eligibility Conditions specific to News Agency for Television Channel(s)	3 (d)	No changes proposed.	The provisions are entirely analogous to Clause 13 (1) (a) of MIB's 2022 'Guidelines for Uplinking and Downlinking of Satellite Television Channels in India'.
		Conditions for FM Radio Broadcasting	3 (e)	-	-
		Eligibility Conditions for Community Radio Station (CRS)	3 (f)	-	-
		Eligibility Conditions for Low Power Small Range FM Radio Broadcasting	3 (g)	-	-
		Conditions for Digital Radio Broadcasting	3 (h)	-	-
4	Provision of Broadcasting Services	Television Programming Services	4 (1)	-	-
		Television Distribution Services	4 (2)	-	-
		Radio Broadcasting Services	4 (3)	-	-
5	Processing Fee, Entry Fee, Bank Guarantee, Security Deposit and Renewal Fee		-	Answered separately in Question 11, Questions 12 and Question 15.	-
6	Process of Application to obtain the	Broadcasting (Television Programming and Distribution) Services	6 (1)	Answered separately in Question 11, Questions 12 and Question 15.	-

	Service Authorisations	The Broadcasting (Radio) Services	6 (2)	-	-
7	Grant of Service Authorisations		-	Answered separately in Question 3 and Question 4.	-
8	Validity Period	Broadcasting (Television Programming) Services	8 (1) to 8 (4)	No changes proposed.	The provisions are entirely analogous to Clauses 4 (2), 7 (2), 11 (2), 14 (1) and 19 (1) of MIB's 2022 'Guidelines for Uplinking and Downlinking of Satellite Television Channels in India'.
		Broadcasting (Television Distribution) Services	8 (5) to 8 (6)	No changes proposed.	The provisions are entirely analogous to Clause: - Clause 2 of MIB's 2020 'Guidelines for obtaining License for Providing DTH Services in India'; and - Clause 3.1 of MIB's 2009 'Guidelines for providing HITS Services in India'
		The Broadcasting (Radio) Services	-	-	-
9	Non-exclusivity clause		-	-	-
10	Conditions for assignment and use of Spectrum		-	-	-
11	Migration of Existing service providers of old regime in the new Authorisation Framework		-	Answered separately in Question 7.	-
12	Security Conditions		-	-	-

Framework for Television Programming, Television Distribution and Radio Broadcasting

- 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.**

Response:

The structure seems appropriate.

Migration Methodology

- 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.**

Response:

Among the two approaches discussed, it is **recommended to adopt the first approach for migration to the authorization framework** under the Telecommunications Act, 2023 i.e. migration of existing licensees to the new authorization framework upon the expiry of current license period. The reasons for the same are as follows:

- Avoids Repetition and Administrative Burden - If the second approach is adopted, Entities that recently acquired their licenses will have to undergo the entire process again prematurely. This would amount to unnecessary administrative overheads. The first approach, on the other hand, allows both licensees and the regulator, ensuring a smoother and more efficient transition upon expiry of existing license period.
- Allows Staggered Implementation - If the second approach is adopted, the regulator will need to handle the transition of all existing licensees simultaneously, creating a massive operational burden. The first approach, on the other hand, allows for a staggered transition as and when licenses expire. This phased migration ensures that the process remains manageable i.e. neither overwhelming the regulator nor creating a frenzy among entities.
- Impracticality of the Second Approach During Concurrent Consultations - Adopting the second approach until other topics, including different types of fees (e.g., permission fees, processing fees, annual fees), are still open to consultation would be impractical. Implementing the second approach prematurely would create regulatory confusion and uncertainty, as stakeholders would lack clarity on the final fee structure

and compliance obligations under the authorization framework. The first approach ensures that no hasty decisions are made, providing time for comprehensive regulatory clarity and stakeholder alignment.

- Alignment with Spectrum Licensing Methodology - The first approach also aligns with the current spectrum assignment methodology adopted in Section 4 (8) and Section 4 (9) of the Telecommunications Act, 2003, wherein spectrum rights are tied to specific license terms and migrate to new conditions only upon expiry. Adopting the first approach will ensure consistency in regulatory practices and avoid disruptions in ongoing operations of licensees.
- Regulatory Stability and Continued Service Delivery - Sudden transition to the authorization framework proposed under the second approach may lead to regulatory instability and uncertainty for existing license holders. The first approach provides a predictable path forward, allowing existing license holders to continue their operations seamlessly, and in the meantime adjust to the new regime, and then upon expiration of their licenses to migrate to the new authorization framework.

Accordingly, in reference to point 11 (Migration of Existing service providers of old regime in the new Authorisation Framework) of the draft terms and conditions to be included in the Rules for Grant of Service Authorisation, as contained in Annexure II of the Consultation Paper, the changes proposed are as follows:

T&C No.	Provision	Changes Proposed
11	<p><i>Migration of Existing service providers of old regime in the new Authorisation Framework</i> <i>The migration of existing service providers of old regime to the new Authorisation Framework shall be carried out as per Section 3(6) of the Telecommunications Act, 2023. The provisions with respect to existing authorised entity for migration in new authorisation framework are as under:</i></p> <ol style="list-style-type: none"> 1) <i>Notwithstanding anything contained in the terms and conditions of permission issued earlier, these terms and conditions will also be applicable to the existing permission holders.</i> 2) <i>A licensee/ permission holder, whose validity is nearing expiration shall need to mandatorily migrate to the new authorisation regime for continuity of its operations. The renewal of services may not be permitted in the extant framework, after notification of appointed date and the Rules.</i> 3) <i>Migration to new authorisation regime may be taken in following manner:</i> 	<p>Migration of Existing Service Providers to the New Authorization Framework</p> <p>The migration of existing service providers under the old licensing regime to the new authorization framework shall be governed by Section 3(6) of the Telecommunications Act, 2023. The following provisions outline the process and terms for such migration:</p> <ol style="list-style-type: none"> 1) Notwithstanding the terms and conditions of the permissions issued earlier, all entities operating under the old regime shall be subject to the terms and conditions of the new authorization framework, as notified under the Telecommunications Act, 2023. 2) All licensees/permission holders nearing the expiration of their current licenses shall be mandatorily required to migrate to the new

<p><i>i. An online application requesting for migration may be provided, along with surrender/ submission of the existing license/ permission. This process shall 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 shall be migrated to the authorisation framework. All terms and conditions for service provisioning shall be governed by the rules made under the Telecommunications Act, 2023.</i></p> <p>OR</p> <p><i>ii. Authorisation may be valid for the prescribed validity period for the respective service authorisations from the effective date of Authorisation, irrespective of the validity period of the License/permission already held. On migration, the Authorised Entity shall be liable to pay the differential Entry Fee i.e. Entry Fee applicable for the service authorisation in which the Authorised Entity is getting migrated minus the Entry Fee (for balance validity period) already paid by the licensee/permission holder in the old regime for the service authorisation(s) getting migrated.</i></p> <p><i>iii. Further, the Minimum Authorisation Fee, as applicable, for an old licensee/permission holder migrating to new regime shall be calculated based on the Entry Fee specified under the new regime. For migrating licensee, for authorisations with 'Nil' Entry Fee, the Minimum Authorisation Fee shall be as prescribed under the new service authorisation.</i></p> <p><i>iv. In case an existing permission holder, holding radio frequency/ spectrum acquired through auction (e.g. FM radio operator) or for which market determined price has been paid, migrates to the service authorisation granted under the Telecommunications Act, 2023, such spectrum shall continue to be valid till its validity on the terms and conditions on which it had been assigned.</i></p> <p><i>v. In case an existing Licensee/permission holder, holding administratively assigned radio frequency/spectrum (e.g., teleport, television channel, DTH, HITS, CRS etc.) migrates to the service authorisation granted under the</i></p>	<p>authorization framework for continuity of operations.</p> <p>3) Renewals under the old regime will not be permitted once the appointed date and the associated rules for the new authorization framework are notified.</p> <p>4) Licensees/permission holders shall be required to submit an online application for migration, accompanied by the surrender/submission of their existing license or permission.</p> <p>5) The migration process shall be free of additional fees, including processing, entry, or any other charges.</p> <p>6) The remaining validity period of the existing license/permission shall be carried forward under the new authorization framework. Upon migration, the entity will be governed by the terms and conditions specified under the Telecommunications Act, 2023, and its associated rules.</p> <p>7) In case an existing permission holder, holding radio frequency/ spectrum acquired through auction (e.g. FM radio operator) or for which market determined price has been paid, migrates to the service authorisation granted under the Telecommunications Act, 2023, such spectrum shall continue to be valid till its validity on the terms and conditions on which it had been assigned.</p> <p>8) In case an existing Licensee/permission holder, holding administratively assigned radio frequency/spectrum (e.g., teleport, television channel, DTH, HITS, CRS etc.) migrates to the service authorisation granted under the Telecommunications Act, 2023, such spectrum shall continue to be valid on the terms and conditions on which it had been assigned, for a period of five years from the appointed day of section 4(8) of the Telecommunications Act,</p>
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	<i>Telecommunications Act, 2023, such spectrum shall continue to be valid on the terms and conditions on which it had been assigned, for a period of five years from the appointed day of section 4(8) of the Telecommunications Act, 2023, or the date of expiry of such spectrum, whichever is earlier.</i>	2023, or the date of expiry of such spectrum, whichever is earlier.
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Penal Provisions

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 said penal provisions 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.**

Response:

The extant penal provisions for breach of terms and conditions of license / permission are appropriate and can be adopted mutatis mutandis.

The extant penal provisions for violation of Programme Code and Advertising Code are appropriate and can be adopted mutatis mutandis.

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The Broadcasting (Television Programming, Television Distribution and Radio) Services

- 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.**

Response:

In reference to the draft common terms and conditions of the Broadcasting (Television Programming, Television Distribution and Radio) Services, as contained in Part I of Annexure III of the Consultation Paper, comments, if any, are appended in the 'Proposed Changes' and 'Reasons' column in the below table.

S. No.	Description		T&C No.	Proposed changes, if any	Reasons with detailed justifications
1	Definitions		-	Answered separately in Question 2.	-
2	Assignment of Spectrum		2	Please see remarks below this table.	Please see remarks below this table.
3	Equity Holding in Other companies	Broadcasting (Television Programming) Services	3 (1)	<i>"...Provided that an authorised entity having authorisation of a service, within 15 30 days of change of its shareholding pattern or partnership pattern or FDI pattern..."</i>	The provisions of the 'main clause' are entirely analogous to Clause 26 (2) of MIB's 2022 'Guidelines for Uplinking and Downlinking of Satellite Television Channels in India'. The provisions of the 'provisio' are analogous to Clause 29 of MIB's 2022 'Guidelines for Uplinking and Downlinking of Satellite Television Channels in India', <u>however</u> the time duration permitted to intimate any

					change in the shareholding pattern is proposed to be reduced. Reduction in the time duration to half, i.e. 15 days from 30 days, is impractical and will put unnecessary burden on the authorised entity.
		Broadcasting (Television Distribution) Services	3 (2)	DTH - HITS No changes proposed.	DTH - HITS The provisions are entirely analogous to Clause 1.6 of MIB's 2009 'Guidelines for providing HITS Services in India'
		The Broadcasting (Radio) Services	3 (3)	-	-
4	Renewal of Authorisation	Broadcasting (Television Programming) Services	Table 5.1 (1)-(4)	No changes proposed.	The provisions are entirely analogous to Clauses 5, 9, 12 and 14 of MIB's 2022 'Guidelines for Uplinking and Downlinking of Satellite Television Channels in India'.
		Broadcasting (Television Distribution) Services	Table 5.1 (5)-(6)	Answered separately in Question 15.	-
		The Broadcasting (Radio) Services	-	-	-
5	Modifications in the Terms and Conditions of Service Authorisation		-	-	-
6	Non-Exclusivity clause		-	-	-
7	Restrictions on Transfer of Service Authorisation		-	-	-
8	Provision of Service		-	-	-
9	Reporting Requirement w.r.t. Eligibility		-	-	-

	Conditions			
10	Adherence to Programme Code and Advertisement Code	-	-	-
11	Financial Conditions	-	Answered separately in Question 11, Questions 12 and Question 15.	-
12	Commercial Conditions	-	-	-
13	Technical Conditions	-	-	-
14	Disaster/Emergency/ Public Utility Services	-	-	-
15	Operating Conditions	-	-	-
16	Confidentiality	-	-	-
17	Force Majeure	-	-	-
18	Dispute with Other Parties	-	-	-
19	Dispute Resolution and Jurisdiction	-	-	-
20	Contravention of Rules/ Violation of Programme	-	-	-

Clause 2 - Assignment of Spectrum

The clause proposed with respect to assignment of spectrum is as follows - *As per Section 4(4) of the Telecommunications Act, 2023, spectrum assignments for Broadcasting (Programming and Distribution) services shall be done through administrative process. The Authorised Entity shall adhere to the terms and conditions laid down by Department of Space and WPC Wing, Ministry of Communications including payment of applicable fee/ royalty to WPC Wing for use of spectrum.*

As per the proposed clause, spectrum assignments for Broadcasting (Programming and Distribution) services shall be carried out through an administrative process. We respectfully disagree with for the following reasons:

- a. Auction as the Default Method for Spectrum Assignment: Section 4(4) of the Telecommunications Act, 2023 clearly establishes auction as the default mechanism for spectrum assignment, except for cases explicitly listed in the First Schedule.
- b. Limited Scope of Administrative Assignment: Section 4(5)(a) of the Telecommunications Act, 2023 permits the government to assign spectrum administratively only under two specific circumstances:
 - a. For government use, or
 - b. In cases where an auction is deemed neither economically nor technically feasible.

Thus, the condition specified in Section 4(5)(a)(i) of the Telecommunications Act, 2023, is redundant because auction inherently serves public interest by ensuring fair market valuation and equitable access to spectrum.

- c. Ongoing Compliance with Section 4(5)(a) Criteria: Any entry into the First Schedule must not only meet the criteria outlined in Section 4(5)(a) at the time of its inclusion but should continue to satisfy these requirements at all relevant times. This ensures that spectrum assignment practices remain aligned with technological advancements, economic feasibility, and evolving public interest considerations.
- d. Amendability of the First Schedule: Section 57(1)(a) grants the Central Government the power to amend the First Schedule by adding or removing entries as necessary. This flexibility reflects the dynamic nature of telecommunications and broadcasting sectors and underscores the importance of revisiting administrative assignments periodically to ensure alignment with changing conditions.
- e. Technological Evolution and Market Dynamics: Technological advancements in both terrestrial and non-terrestrial broadcasting services, coupled with shifting market dynamics, necessitate periodic reassessment of spectrum assignment methods. Rigidly specifying administrative assignments in the rules may limit the ability to adapt to future developments, creating potential inefficiencies and inequities in spectrum utilization.

Hence, to maintain flexibility and ensure alignment with the Telecommunications Act, 2023, the rules should avoid prescriptive language that locks in administrative assignment as the default method for broadcasting spectrum. Instead, the rules should state that spectrum assignments for broadcasting services will be governed by the provisions of the Indian Telecommunications Act, 2023, allowing the method of assignment to evolve in accordance with the Act's provisions and prevailing circumstances.

The Broadcasting (Television Programming) Services

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 TV Channel**
- ii. Non-news & Current Affairs TV Channel**
- iii. Teleport/ Teleport Hub**

Stakeholders are requested to provide their comments with detailed justification.

We agree with the proposed changes.

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.

We agree with the proposed changes.

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.

We agree with the proposed changes.

Q13. A preliminary draft of terms and conditions for inclusion in the second set of Rules for The 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.

Response:

We agree with the proposed changes.

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The Broadcasting (Television Distribution) Services

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.

The updated eligibility conditions in respect of minimum net worth for HITS and DTH services were issued as recently as November 2020 and September 2022. The minimum net worth requirements prescribed were an outcome of extensive stakeholder consultation factoring in a careful balance of technical, financial, and legal obligations, and unique characteristics of each service. Accordingly, no change is required in the extant eligibility conditions in respect of minimum net worth for HITS and DTH services in the new authorization regime.

At present the minimum net worth requirement for respective service authorizations is as follows:

Service	Minimum Net Worth (in Rs. crore)
DTH	Not Prescribed
HITS	10.00

Perusal of the minimum net worth applicable for HITS and DTH services as proposed in the new authorization regime, as contained in Schedule III, indicates that the existing structure has been retained *mutatis mutandis*.

The absence of a minimum net worth requirement for DTH service providers creates a significant regulatory gap, especially given the unique nature of DTH services as a direct-to-customer offering. Unlike other service categories, DTH operators deal directly with millions of end consumers, requiring substantial infrastructure, operational capabilities, and financial stability to ensure uninterrupted service delivery, effective customer management, and compliance with regulatory standards.

Thus, it is suggested that the minimum net worth requirement for DTH service providers should be ₹100 crore. This would maintain the integrity and reliability of DTH services. Such a threshold would help ensure that only financially capable entities enter the market, reducing the risk of service disruptions caused by undercapitalized operators.

By setting a higher net worth requirement for DTH operators, the regulatory framework would reflect the scale, scope, and direct consumer impact of these services. At the very least, a minimum net worth of ₹10 crore should be introduced to harmonize DTH services

with the existing standards for HITS operators. This would ensure a more balanced and equitable regulatory environment while safeguarding service reliability and consumer interests.

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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

At present the fee structure for respective services is as follows:

Service	Processing Fee	Entry Fee	License Fee	Bank Guarantee	Validity Period	Renewal Fee
DTH	Not Prescribed	10,00,00,000 INR	8% of AGR	5,00,00,000 INR for 1 st two qtr, thereafter LF of 2 qtr.	20 Years	10 Years
HITS	1,00,000 INR	10,00,00,000 INR	Not Prescribed	40,00,00,000 INR for 3 years	10 Years	Not Prescribed

Perusal of the fee structure for respective services as proposed in the new authorization regime, as contained in Schedule III, indicates change in License fee and Bank Guarantee of DTH services.

Existing Provision	Changes Proposed	Remarks
<p>Payment of License Fee</p> <p>(i) The Licensee shall pay an annual fee equivalent to 8% of its Adjusted Gross Revenue, calculated by excluding GST from Gross Revenue (GR) as reflected in the audited accounts of the Company for that particular financial year.</p>	<p>Authorisation Fee</p> <p>(1) The authorised entity shall pay an annual authorisation fee equivalent to 3% of Adjusted Gross Revenue (AGR). The Authorisation Fee for the authorised entity shall be brought down to zero after the end of the financial year 2026-2027.</p> <p>(2) Gross Revenue shall comprise revenue accruing to the</p>	<p>DTH operators currently pay a nominal fee for spectrum usage compared to its actual market value.</p>

<p>(ii) The minimum annual license fee shall be subject to 10% of the Entry Fee.</p> <p>(iii) The license fee is to be paid on a quarterly basis, the quantum thereof to be equal to the actual License Fee payable for the preceding quarter. The first payment of license fee for the previous quarter shall be made on the basis of provisional account for the quarter within one month of the end of a particular quarter. The annual settlement of the License Fee shall be done at the end of the financial year.</p> <p>(iv) The payment of license fee for the 4th quarter shall be made after adjustments and settlements of accounts for the whole year and on the basis of the finalised audited statement of the entity and latest by 30th September succeeding the financial year.</p> <p>(v) The licensor will have the right to modify the license fee as a fixed percentage of AGR during the validity of license period.</p>	<p>authorised entity by way of all operations/ activities and inclusive of all other revenue/ income on account of interest, dividend, rent, profit on sale of fixed assets, miscellaneous income etc. without any set-off for related items of expense.</p> <p>[Explanation:</p> <ol style="list-style-type: none"> 1. The Gross Revenue shall be inclusive of subscription fee, installation, activation, restoration, reactivation, relocation, visiting and other service charges, subscription and advertisement revenue from platform services channels, carriage fees, revenue from marketing and placement agreements, commissions received, revenue from sale, repair and maintenance of customer premises equipment, royalties, revenue from customer support service and any other revenue of the enterprise. 2. The Gross Revenue shall also include ancillary revenue accruing to the DTH authorisation due to the privileges connected with the authorised entity, such as income from property rent, revenue from sharing of infrastructure, revenue from sale of immovable property, gains from foreign exchange rates fluctuations, insurance claims, bad debt recovered, excess provisions written back which has been established for maintaining and working of DTH service or any other such miscellaneous revenue received by the authorised entity. 3. In the case of authorised entity providing or receiving goods and service from other companies that are controlled* by the owners of the authorised entity, all such transactions shall be valued at normal commercial rates and included in the profit and loss accounts of the authorised entity 	<p>In contrast, providers offering IPTV or content over mobile and fixed networks incur significant costs to acquire spectrum through auctions and invest in terrestrial infrastructure.</p> <p>Proposing a license fee waiver for DTH, despite their reliance on free spectrum, would only deepen this inequity.</p> <p>Such preferential treatment undermines the principle of "Equality before Law" enshrined in Article 14 of the Indian Constitution. Regulatory</p>
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	<p>to calculate its Gross Revenue. [*Note: "Control" as defined in Section 2(27) of the Companies Act 2013.]</p> <p>(3) The DTH operators shall calculate Applicable Gross Revenue (ApGR) for arriving at the revenue calculations for authorisation fee. ApGR shall be equal to the total Gross Revenue (GR) of the authorised entity as reduced by the following items:</p> <ul style="list-style-type: none"> i. Revenue from activities under authorisation/ permission issued by Department of Telecommunications; ii. Reimbursement, if any, from the Government; and iii. List of other income* to be excluded from GR to arrive at ApGR: <ul style="list-style-type: none"> a. Income from Dividend; b. Income from Interest; c. Income from sale of fixed assets and securities; d. Gains from Foreign Exchange rates fluctuations; e. Income from property rent; f. Insurance claims; g. Bad Debts recovered; h. Excess Provisions written back. <p>* subject to conditions given in Schedule-IX.</p> <p>(4) The Adjusted Gross Revenue (AGR) shall be calculated by excluding Goods and Services Tax (GST) paid to the Government from the Applicable Gross Revenue (ApGR), if the ApGR had included as component of GST.</p> <p>(5) The format for submission of Statement of Revenue and Authorisation Fee for the authorised entity is prescribed in Schedule-IX. The submission of the Statement of Revenue and Authorisation Fee shall be made end-to-end online with facility</p>	<p>frameworks must recognize and address relevant differences between platforms to maintain fairness. Waiving the DTH license fee without addressing the fundamental cost differences across platforms creates an imbalanced regulatory regime and violates this constitutional principle.</p>
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	<p>to upload all the related documents in digital mode via single window system.</p> <p>(6) The minimum annual authorisation fee shall be subject to 10% of the Entry Fee.</p> <p>(7) The authorisation fee is to be paid on a quarterly basis, the quantum thereof to be equal to the actual authorisation Fee payable for the preceding quarter. The first payment of authorisation fee for the previous quarter shall be made on the basis of provisional account for the quarter within one month of the end of a particular quarter. The annual settlement of the authorisation Fee shall be done at the end of the financial year.</p> <p>(8) The payment of authorisation fee for the 4th quarter shall be made after adjustments and settlements of accounts for the whole year and on the basis of the finalised audited statement of the entity and latest by 30th September succeeding the financial year.</p> <p>(9) The Central Government shall have the right to modify the authorisation fee as a fixed percentage of AGR during the currency of authorisation.</p>	
<p>Bank Guarantee</p> <p>The Licensee will have to submit a Bank Guarantee from any Scheduled Bank to the Ministry of Information and Broadcasting for an amount of Rs.5 crores for the first two quarters, and, thereafter, for an amount equivalent to estimated sum payable, equivalent to License fee for two quarters and other dues not otherwise securitised.</p>	<p>Bank Guarantee</p> <p>(1) The authorised entity shall submit an Initial Bank Guarantee from any Scheduled Bank to the Central Government for an amount of Rs. 5 crore for the first two quarters.</p> <p>(2) Thereafter, the authorised entity shall submit a Bank Guarantee (covering Financial and Performance Bank Guarantee) from any Scheduled Bank to the Central Government for an amount equivalent to the Initial Bank Guarantee (i.e., Rs. 5 crore) or 20% of the estimated sum payable, equivalent to Authorisation Fee for two quarters and</p>	<p>The Bank Guarantee requirements should be modified in line with the remarks on licensing / authorization fee.</p>

<p><i>For existing DTH Operators, Bank Guarantee from any Scheduled Bank for an amount equivalent to the estimated sum payable, equivalent to License Fee for two quarters and other dues not otherwise securitized. Further, the Bank Guarantee shall be valid for a year which should be renewed on year-on-year basis in such a manner that the Bank Guarantee remains valid during the entire license period.</i></p>	<p><i>other dues not otherwise securitized, whichever is higher.</i></p> <p><i>(3) Once the Authorisation Fee becomes zero, the authorised entity shall submit a Bank Guarantee (Performance Bank Guarantee) for a fixed amount equivalent to the initial Bank Guarantee (i.e., Rs. 5 crore) from any Scheduled Bank to the Central Government, which shall be valid for a minimum of one year and renewed every year to ensure it remains valid for the entire currency of the authorisation.</i></p> <p><i>(4) The Central Government shall be at the liberty to encash the Bank Guarantee in full or part in the event of violation of any of the terms and conditions of the service authorisations.</i></p> <p><i>(5) Electronic Bank Guarantee shall be encouraged and permitted for ease of doing business.</i></p>	
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We strongly oppose the proposed reduction and eventual elimination of the license fee (or authorization fee) for DTH services for the following reasons:

Violation of the Level Playing Field

DTH services enjoy significant advantages by utilizing spectrum that is administratively assigned at no cost. This setup provides them with a distinct competitive edge over other service providers like Cable TV, IPTV, and those delivering content over fixed-line or mobile networks. These competitors face substantial capital investments for spectrum acquisition and infrastructure development, including cable or fiber networks, which are essential for delivering comparable services.

DTH operators bypass many of these costs due to their reliance on spectrum. Unlike terrestrial providers who face frequent disruptions from cable cuts or fiber maintenance, DTH services maintain high reliability without incurring the operational challenges and expenses associated

with maintaining physical networks. This free-of-cost spectrum assignment amplifies their ability to offer consistent quality of service, a benefit unavailable to other providers without significant investment.

To uphold fair competition, the value of spectrum utilized by DTH operators must be recovered at market-determined rates. The current license fee only partially compensates for this advantage, and any further reduction would exacerbate the existing disparity between DTH and other service providers.

Disparity in Spectrum Cost Recovery

DTH operators currently pay a nominal fee for spectrum usage compared to its actual market value. In contrast, providers offering IPTV or content over mobile and fixed networks incur significant costs to acquire spectrum through auctions and invest in terrestrial infrastructure. Proposing a license fee waiver for DTH, despite their reliance on free spectrum, would only deepen this inequity.

Such preferential treatment undermines the principle of “Equality before Law” enshrined in Article 14 of the Indian Constitution. Regulatory frameworks must recognize and address relevant differences between platforms to maintain fairness. Waiving the DTH license fee without addressing the fundamental cost differences across platforms creates an imbalanced regulatory regime and violates this constitutional principle.

Revenue Loss to the National Exchequer

Currently, DTH providers contribute 8% of their Adjusted Gross Revenue (AGR) as a license fee, which collectively amounted to approximately ₹692 crores in FY 2023-24. This revenue serves as partial compensation for the spectrum utilized by DTH operators.

DTH services rely on Fixed Satellite Service (FSS) spectrum in the Ku band, a valuable resource with immense commercial potential. For instance, a typical DTH operator in India uses up to 24 transponders, equivalent to 1,728 MHz in the Ku band. Reducing or waiving the license fee would result in a significant revenue loss, removing even this partial compensation for the use of this scarce national resource. Such a move would undermine the government’s ability to recover costs associated with the spectrum, particularly as this band gains increasing importance for both terrestrial and non-terrestrial technologies.

Flawed Comparisons with Unified License Fee

The rationale for reducing the DTH license fee to 3% appears to stem from a flawed comparison with the Unified License fee, where 8% AGR includes a 5% contribution to the Universal Service Obligation Fund (USOF). However, the DTH license fee was never tied to the USOF, and its original rate of 10% – later reduced to 8% – was established independently of any USOF obligations. Comparing DTH license fees to telecom services ignores the unique advantages DTH operators derive from free spectrum allocation, which justifies a distinct fee structure to address regulatory arbitrage.

To ensure fairness and prevent further regulatory arbitrage in favor of DTH operators, the license fee on DTH services should not be reduced or eliminated. Instead, the regulatory framework should include mechanisms to recover the full cost of spectrum assigned to DTH and other spectrum-dependent services such as HITS. Such measures would align with principles of equity, sustain government revenue, and maintain a level playing field across service providers.

In conclusion, the proposed changes to the DTH license fee structure are unwarranted and would lead to significant regulatory and financial imbalances. A holistic approach is needed to address the disparities in spectrum cost recovery and maintain equity across all platforms. We strongly urge reconsideration of this proposal to safeguard fair competition and protect national interests.

Q16. A preliminary draft of terms and conditions for inclusion in the second set of Rules for the 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.

Response:

Besides the inputs provided with respect to Authorization Fee and Bank Guarantee in case of DTH Services in Question 15, we agree with the proposed changes.

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 Part- III of Annexure-III for consultation. Stakeholders are requested to provide their comments including addition/ modification/ deletion required, if any, with detailed justification.

Response:

In reference to Chapter 3.3: Draft Terms and Conditions for Internet Protocol Television (IPTV) Services, as contained in Part III of Annexure III of the Consultation Paper, the table below maps these draft terms and conditions with the corresponding 2008 Guidelines. Comments, if any, are appended in the 'Remarks' column.

Clause No.	Provision	Corresponding Clause No. in the 2008 Guidelines	Remarks
1	<i>A person holding an authorisation under Section 3 of the Telecommunications Act, 2023 for provision of triple play services, IPTV service as well as Cable Television operators registered under Cable Television Network (Regulation) Act 1995 (referred as Cable Act hereafter) shall be required to submit a self-declaration to Central Government (viz. Ministry of Information & Broadcasting, Ministry of Communication) & Regulator (viz. TRAI) giving details of authorisation under which IPTV service is proposed, the start date, the area being covered, and details of the network infrastructure etc. in the format prescribed in Schedule-XI before provision of IPTV services.</i>	(ii)	Format prescribed in Schedule XI is suitable.
2	<i>While providing IPTV services, an Authorised Entity under section 3 of the Telecommunications Act, 2023 shall be required to pay authorisation fee at applicable rates under its authorisation to provide triple play service/ IPTV service wherein, the revenue from IPTV service shall also be included</i>	(iii)	Wireless services have achieved remarkable penetration; however the country continues to lag significantly in fixed-line adoption due to the substantial capital investment

	<p><i>along with telecom revenues under its authorisation to provide telecom services.</i></p>	<p>required and the longer timelines for deployment.</p> <p>The disparity in adoption is striking. India has only 0.6 million IPTV subscribers compared to approximately 62.2 million DTH subscribers. Similarly, in the telecommunications sector, there are just 42 million wireline internet subscribers versus over 900 million wireless internet users. These figures highlight a pressing need to accelerate the growth of fixed-line services, which are critical for enhancing network reliability, supporting next-generation technologies, and achieving a balanced digital ecosystem.</p> <p>TRAI had recommended waiver of license fee on fixed-line services. This recommendation is still pending government approval. Implementing this waiver would significantly lower the cost barriers for service providers, incentivizing investments in fixed-line infrastructure such as broadband internet and IPTV services. This would align India with global practices, where fixed-line networks form the backbone of high-quality digital services.</p>
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			Accordingly, TRAI should reiterate its recommendation to waive license fees for fixed-line services.
3	<i>The IPTV service provider shall ensure that the IPTV set top boxes required to receive IPTV services conform to the applicable Indian standards.</i>	(iv)	-
4	<i>The Cable operators while providing IPTV services will continue to be governed by the provisions of the Cable Television Networks (Regulation) Act, 1995, The Telecom Regulatory Authority of India Act, 1997 and any other laws as applicable and as such shall be able to provide such content on their IPTV service which is permissible as per the Cable Act and which is in conformity with the Programme and Advertisements Codes prescribed thereunder.</i>	(v)	-
5	<i>An Authorised Entity for provision of triple play and/ or IPTV services under the Telecommunications Act, 2023 while providing television channels through IPTV shall transmit only such broadcast television channels in exactly same form (unaltered) as authorised by the Ministry of Information & Broadcasting. In such cases, the responsibility to ensure that content is in accordance with the extant laws, rules, regulations etc. shall be that of the broadcaster. The IPTV service provider shall not carry any broadcast television channels prohibited either permanently or temporarily, or not authorised by the Ministry of Information & Broadcasting.</i>	(vi)	-
6	<i>An Authorised Entity for provision of triple play and/ or IPTV services under the Telecommunications Act, 2023 may obtain content from the Multi System Operator or the Cable Operator for providing IPTV services.</i>	(vii)	-
7	<i>An Authorised Entity for provision of triple play and/ or IPTV services under the Telecommunications Act, 2023 providing IPTV service shall show only those News and Current Affairs television channels which have</i>	(viii)	-

	<i>been registered with Ministry of Information and Broadcasting. An Authorised Entity for provision of triple play and/ or IPTV services under the Telecommunications Act, 2023 shall not produce or provide any other broadcast or non-broadcast channel having any element of News and Current Affairs.</i>		
8	<i>The provisions of Programme Code and Advertisement Code as provided in Cable Television Network (Regulation) Act 1995 and Rules thereunder shall be applicable even in the case of content other than Television Channels from broadcasters provided by the Authorised Entity for provision of triple play and/ or IPTV services under the Telecommunications Act, 2023 for providing IPTV services. Such entity shall be responsible for ensuring compliance with the Codes in respect of such content. In addition, such entities shall also be bound by Indian laws-civil and criminal; instructions/ directions/ guidelines issued by the Central Government from time to time to regulate the content, which is either produced by it or sourced from a third-party content provider other than the broadcasters.</i>	(ix)	-
9	<i>The IPTV service provider shall be required to compulsorily carry those channels of Prasar Bharati, or any other channel as notified by the Central Government (Ministry of Information & Broadcasting). Such notification may contain the numbers and names of channels of Prasar Bharati or any other channel and the manner of reception and retransmission of such channels by the IPTV service provider.</i>	(xi)	-
10	<i>The IPTV service provider shall provide commercial interoperability so that if the subscribers decide to switch over to any other service provider or platform, they should be able to do so at least cost. Commercial interoperability here would mean that in addition to offering the receiver set on an outright purchase basis, a subscriber shall also have the option to purchase it on a hire-purchase basis or on rental basis with a provision to</i>	(xii)	-

	<i>return the receiver set on such terms and conditions as may be laid down by the regulations.</i>		
11	<i>The Central Government (Ministry of Information & Broadcasting) may direct the IPTV service provider to ensure preservation and retention for a period of 90 days unless specified otherwise, of different kinds of content made available to their subscribers and requires it to ensure its security and also that it is not tampered with during such period. The IPTV service provider may be required to produce the same to the Government or its authorized representative, as and when required and the IPTV service providers will be required to ensure compliance to all such directions.</i>	(xiii)	-
12	<p><i>The IPTV service provider shall provide the necessary facility for continuous monitoring of the IPTV network at its own cost and maintain the recordings of programmes and advertisements carried on the network for a period of 90 days unless specified otherwise, from the date of broadcast and produce the same to the Government or its authorized representative, as and when required. The monitoring system must provide Set Top Box subscriber information as well as contents to the law enforcement agencies in plain readable, audible and viewable format, as the case may be.</i></p> <p><i>Provided that in case of any dispute the records of broadcast of programmes and advertisements shall be maintained till final disposal of the dispute.</i></p> <p><i>Provided further that the IPTV service provider shall provide access to the Government or its authorized representative to all its facilities including equipment, records, system etc. for purposes of inspection.</i></p> <p><i>In addition, the IPTV service provider shall, if required, by the Government or its authorized representative, provide necessary facilities for continuous</i></p>	(xiv) & (xviii) (second half)	-

	<i>monitoring for any particular aspect of the companies' activities and operations.</i>		
13	<i>On demand by the Central Government (Ministry of Information and Broadcasting) or its authorized representative, an IPTV service provider shall provide the necessary equipment, services and facilities at designated place(s) for continuous monitoring of the IPTV service by or under supervision of the Government or its authorised representative.</i>	(xv)	-
14	<i>The IPTV service provider shall submit such information with respect to its service as may be required by the Central Government (Ministry of Information & Broadcasting) or its authorized representative from time to time.</i>	(xvi)	-
15	<i>The IPTV service provider shall furnish any such information at periodic intervals as may be required by the Central Government (Ministry of Information & Broadcasting) or its authorized representative concerning Programme Content and Quality, Technical Parameters etc. relating to the service in the format as may be required by the Central Government or its authorized representative from time to time.</i>	(xvii)	-
16	<i>The Central Government (Ministry of Information & Broadcasting) or its authorized representative may inspect the IPTV service facilities. Such inspection shall ordinarily be carried out after reasonable notice except in circumstances, where giving such a notice will defeat the very purpose of the inspection and in such cases, it may be carried out without prior intimation.</i>	(xviii) & (xix)	-
17	<i>The Central Government (Ministry of Information & Broadcasting) or its authorized representative may inspect the IPTV service facilities. Such inspection shall ordinarily be carried out after reasonable notice except in circumstances, where giving such a notice will defeat the very purpose of</i>	N/A	This provision is a repetition of Clause 16 and needs to be deleted.

	<i>the inspection and in such cases, it may be carried out without prior intimation.</i>		
18	<i>Any breach of the provisions of Act/ Rules/ Authorisation by the authorised entity shall be dealt with by designated agencies which are responsible for administering such Acts/ Rules/ Authorisations.</i>	(xxii)	-
19	<i>The Government may modify at any time the provisions of these rules, if in the opinion of the Government it is necessary or expedient to do so in public interest or in the interest of the security and sovereignty of the State.</i>	(xxiii)	-

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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.

Response:

Yes, there is a need to review and completely eliminate the minimum net worth requirement of Rs. 100 crores for ISPs to provide IPTV services under the new authorization regime.

The minimum net worth requirement of Rs. 100 crores contained in the 'IPTV Service Guidelines' issued by MIB on 8th September 2008 were based on the scope of licence for 'Internet Service' as defined in the 'Licence Agreement for Provision of Internet Services' issued by the DoT at that time. However, in the Unified License (including ISP authorization) regime notified by the DoT in 2013, this requirement was completely removed. The DoT had done this consciously for the purpose of simplifying entry conditions for new providers and promoting fair competition by removing additional financial barriers.

A corresponding change in the 2008 IPTV guidelines issued by MIB have not been carried out so far, likely due to the lack of an appropriate review opportunity. The current consultation paper presents the first chance for stakeholders to provide formal feedback on this matter. Thus, it is suggested that the minimum net worth requirement for ISPs to provide IPTV services be removed entirely ensuring consistency across both MIB and DoT regulations.

This change would also be in line with TRAI's recommendations dated 18th September 2024 on 'Framework for Service Authorisations to be Granted Under the Telecommunications Act, 2023' wherein (Para 3.54) TRAI emphasized a nil net worth requirement for Internet service authorizations, including IPTV services, under the Telecommunications Act. TRAI's recommendations signal that distinct financial conditions for IPTV services are unnecessary and redundant.

Hence, the minimum net worth requirement of Rs. 100 crore for ISPs to provide IPTV services should be reviewed and removed. A uniform approach, without additional net worth requirements for IPTV, would align with the updated terms and conditions for the provision of internet services by the DoT and would reflect on the broader shift toward creating a unified, accessible regulatory framework for digital services.

The Broadcasting (Radio) Services

Q19. In order to unbundle the authorisation from the spectrum allocation, the authorisation for providing FM Radio services is required to be obtained first, and thereafter an authorised entity is allowed to participate in the e-auction process for allocation of spectrum in a particular city. In such a scenario, stakeholders are requested to provide their comments with detailed justification on the following:

- a. Whether the scope of service for the FM radio service be made Pan-India instead of City to allow an authorised entity to participate in e-auction process of any City in India?
- b. What should be the prescribed entry fee, processing fee requirement for obtaining such FM Radio broadcasting service authorisation?
- c. What should be the minimum net-worth requirement for obtaining service authorisation for FM Radio broadcasting services?

Response:

No comments.

Q20. A preliminary draft of terms and conditions for inclusion in the second set of Rules for the Broadcasting (Radio) Services is annexed as Part-IV 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.

Response:

No comments.

Any Other Issue

Q21. Stakeholders may provide other comments, if any, relevant to the issues related to terms and conditions, including regulatory fees for the broadcasting services authorisations with justifications thereof.

Response:

The consultation paper aims to streamline the terms and conditions for broadcasting services under the new authorization framework. **However, it is surprising and concerning that no reference has been made to Over-the-Top (OTT) platforms.**

OTT broadcasting has become a dominant force in the broadcasting industry, drastically altering consumer viewership patterns. Traditional broadcasting now accounts for only 20% to 25% of the market, with the remaining share occupied by OTT platforms. Hence, the absence of any discussion on OTT broadcasting leaves a critical regulatory gap that urgently needs to be addressed.

The rapid growth of OTT platforms offering live TV channels has further transformed the market. **Services like Yupp TV, Samsung TV Plus, Vodafone Play, Tata Play, Distro TV, Patchwall+ (Xiaomi), and LG WebOS are providing live TV channels, without adhering to the existing Uplinking/Downlinking Guidelines or the IPTV Regulations.**

This regulatory vacuum for OTT services has accelerated the erosion of the Pay TV market. OTT platforms offering live TV channels are not required to follow the same obligations, giving them an undue competitive advantage and undermining the stability of the traditional broadcasting sector.

To ensure fairness, transparency, and sustainability in the broadcasting sector, comprehensive regulatory guidelines should be established for OTT platforms. These guidelines should cover licensing requirements, content distribution standards, applicability of Programme Code and Advertisement Code and adherence to broadcasting compliance norms similar to Pay TV and IPTV operators.