

To,

Prof. M. Kasim,
Advisor (B&CS)-III,
Telecom Regulatory Authority of India,
Mahanagar Doorsanchar Bhawan,
Jawahar Lal Nehru Marg,
New Delhi – 110002

Subject: Comments on the consultation paper on Digital Terrestrial Transmission

Sir,

I'm writing on behalf of MediaNama, an online publication read by around 250,000 people each month. We cover developments in the digital ecosystem in India, with the objective of providing news and analysis to help create a **fair, open and competitive digital ecosystem in India**.

I personally have 10 years of experience in reporting and analysing the digital industry, especially the digital content industry, including digital video, digital music, and interactive services such as gaming. Apart from this, over the years, MediaNama has focused on policy issues related to Internet Freedom, censorship, paid news, surveillance and privacy, and from a business perspective, lowering of regulatory barriers and the easing of controls on Internet businesses and mobile operators. This, combined with our reportage on business financials and on investments and financing of Internet startups gives us a breadth of understanding of business and policy across content and carriage, large companies and small, and Internet and mobile, from an independent perspective.

In the past, we've participated in consultations with the TRAI and the DIPP in the past, as well as in the processes initiated by Parliamentary Standing Committee on IT on the issue of Paid News in the Media and Net Neutrality. We thank you for the opportunity to submit our views on the consultation on Digital Terrestrial Transmission. Our views follow.

Regards,
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Comments

1. **The philosophy of openness:** An ecosystem, for which the preserve is public interest, must be rooted in the philosophy of openness: that information must be made available in a manner that is transparent, free, non-discriminatory, neutral, unconditional, and without prejudice. To this end, it is essential that the any utilization of public resources such as spectrum imposes no restrictions on the users ability create and distribute information and content, within the ambit of existing laws. There should be no restrictions, based on:
 - 1.1. The ability of the creator or the user of the information or content to create this information or content
 - 1.2. The identity of the creator or the user of the information or content.
 - 1.3. The purpose of the creator or the user of the information or content, especially whether it is commercial or non-commercial in nature.
 - 1.4. The interpretation of the information or content, once transmitted
 - 1.5. How people react to the information once disclosed and/or reused, remixed or repurposed.

This openness allows citizens to remix, bundle and unbundle content types, and reimagine the way the information may be understood or used by others. Openness thus needs to lead to creativity. To enable this, we need low friction, predictable systems, ideally without having to negotiate agreements between creators and distributors.

2. **The separation of content from carriage:** It is essential for plurality and diversity that content be separated from its carriage. This creates a separation and clarity in terms of incentives: the interest of the content providers remains in the creation of valuable content, while the interest of the carriage provider will be in terms of allowing more content, so as to attract more consumers for the content. A marriage between content and carriage, wherein a content provider also owns carriage, lends itself to conflict of interest issues related to anti-competitive practices such as the restriction of certain competing content providers, limiting of content to only select providers, or influencing the quality of service of certain content providers.
3. **Every Indian is a creator:** The switch from analog to digital provides us with fresh opportunity, in its interactivity.

We have the potential in India to have a billion creators, and give them the currently have the freedom to chop, change and remix audio, video, text and interactivity to reimagine new experiences for other users, who are

also creators. Even today, innovators are creating completely new experiences based on the digital medium, as evidenced by the spectacular success of Pokeman GO in the last month alone. India has the potential and the talent to create such experiences, and creators should not be denied the opportunity, by sticking to an outdated regime which limits creation to only a few players, and the utilization of spectrum to just a few distributors, thereby limiting most Indian to the act of consumption. This is best evidenced by Internet Service providers, in their role of transferring data packets between users¹: For users to have confidence in the operation of an exchange, the exchange needs to be neutral.

4. **Internet access is the most open and neutral form of carriage:** The Internet allows all users to create: ever user can take videos, shoot photographs, record audio, and create interactive services, without discriminating whether a user is a commercial or a non commercial entity. This was recognized by the Indian telecom regulator TRAI in the explanatory memo to its February 2016 discriminatory data pricing regulations when it observed: “... *First, unlike traditional markets where there are, for the most part, distinct producers and consumers, on the internet, users are also content producers.*”
5. **Licensing of content providers limits content creation in digital transmission:** Licensing of content is flawed at its very core. *The Supreme Court of India, in the case of Ministry of I&B v. Cricket Association of Bengal² has held that:*

“[a]irwaves being public property, it is the duty of the State to see that airwaves are so utilized as to plurality and diversity of views, opinions and ideas. This is imperative in every democracy where freedom of speech is assured. The free speech right guaranteed to every citizen of this country does not encompass the right to use these airwaves at his choosing. Conceding such a right would be detrimental to the free speech rights of the body of citizens in as much as only a privileged few - powerful economic, commercial and political interests - would come to dominate the media.

Thus:

- 5.1. Licensing of content negatively impacts diversity and plurality of content, by limiting provisioning of content to only licensed entities, and allowing concentration of power in the hands of few. It creates barriers to entry: only those creators who have the wherewithal to

¹ As best articulated recently by Professor Ajay Shah of the National Institute for Public Finance and Policy, Delhi: <http://www.medianama.com/2016/07/223-internet-marketplaces-net-neutrality/>

² <http://judis.nic.in/supremecourt/imgs1.aspx?filename=10896> (Source: Internet Freedom Foundation submission to TRAI on Preconsultation on Net Neutrality)

bid for or acquire licenses are given the opportunity to create and distribute content.

- 5.2. Licensing of content lends itself to excessive state control over its creation and distribution. This is unnecessary, especially given that there exist constitutional restrictions to free speech, under Article 19(2), and further controls via control over over distribution of content via licensing are unnecessary and unwarranted.

During the consultation process in 2007 on the issue of Mobile TV, which is essentially a type of Digital Terrestrial Transmission, the Zee Network had sought the creation of a Universal Broadcaster license³. We oppose any such move to create further licensing, though we would agree that **if, and only if, content licensing is to remain**, it must be platform agnostic, in which case a universal broadcaster license, covering all types of broadcast content, including FM Radio, would suffice.

6. **Digital Terrestrial Transmission is inefficient utilization of spectrum:** There are already other restrictive content distribution mechanisms, such as DTH and Cable TV, so adding Mobile TV, DTT and IPTV to the list will not help content providers.

When the TRAI held the consultation on Mobile TV in 2007, we were still in the GPRS era, and at that time, Mobile TV, for consumption, was far superior to mobile over data networks. Networks, content providers and consumers have evolved since then. Globally, consumers are choosing the Internet over cable TV and DTH, and IPTV has clearly failed in India. The consultation paper mentions value added services along with TV Channels over DTT. Today, “Value Added Services” are the norm on another medium, and you don’t need another medium of distribution when the best medium already exists, with users already on it. The Internet allows users more content, more variety of content, easier discovery, and most importantly, interactivity. The Internet serves the objectives of diversity and plurality of views for a public resource such as spectrum, much greater than Digital Terrestrial Transmission. The paper rightly points out that “One DTT transmitter can provide 10-12 TV channels in Standard Definition (SD) format which may not offer significant value proposition to the consumers”

7. Doordarshan has failed to provide a viable, robust model for DTT. It first trialed DTT in 2006. In 11 years since then, it has failed to execute its plan to even complete its rollout, leave alone develop a consumer base and a device ecosystem for DTT. We also agree with the points made in the paper that: “DTT has provisions to provide mobile TV services, these will be limited to linear scheduled delivery. Consumers would also need mobile

³ <http://traigov.in/WriteReadData/ConsultationPaper/Document/Zee-Network.pdf>

phones with DTT tuner chip set or external plug in dongles to receive mobile TV through DTT. The former requires development of new kind of handsets ecosystem which is primarily driven by requirements of telecom industry.” The world is shifting from linear content delivery to asynchronous viewing and time-shifting. Users don’t want to be restricted to the schedule of a TV Channel, and the only medium where synchronous viewing is pervasive is with live TV.

Questions 1 to 8; Questions 10 and 11:

Q.1 Do you perceive the need for introduction of Digital terrestrial transmission in presence of multiple broadcasting distribution platforms? Please provide your comments with justification.

Q.2 If yes, what should be the appropriate strategy for DTT implementation across the country? Please provide your comments with justification.

Q.3 Should digital terrestrial television broadcasting be opened for participation by the private players? Please provide your comments with justification.

Q.4 Which model or a combination thereof for Digital terrestrial transmission will be most suitable in Indian context? Please furnish your comments with justification.

Q.5 What should be the approach for implementing DTT network (MFN/SFN/Hybrid)? Please furnish your comments with justification.

Q.6 What should be the criteria for arriving at optimum size of DTT multiplex at any location? Please furnish your comments with justification.

Q.7 How many digital multiplex per DTT operator should be planned for metro, major cities, urban and rural areas and why? Please furnish your comments with justification.

Q.8 What should be most appropriate frequency band as per National Frequency Allocation Plan 2011 for implementation of Digital 32 terrestrial transmission including mobile TV? Give your comments with justification.

Q.10 What should be the roadmap for digitization of terrestrial TV network in the country? Please provide your comments with justification.

Q.11 What should be the analog switch off date(s) for the terrestrial TV channels in context with the suggested roadmap for DTT implementation? Please provide your comments with justification.

Answer: Given the points mentioned in our initial comments, we do not feel there is a need for Digital Terrestrial Transmission. Doordarshan should scrap its DTT rollout. Multiple licenses are best avoided, and content licensing should be scrapped.

Q.9 Should spectrum be exclusively earmarked for roll out of DTT services? If so, what should be the quantum considering the broadcasting sector requirement in totality?

Q.12 Stakeholders may also provide their comments on any other issue relevant to the present consultation paper?

Answer: As explained in our initial comments, allocating more spectrum to broadcast is unnecessary and wasteful. The spectrum should be allocated to Digital India, not Digital TV. Given the openness of the Internet, the diversity and plurality of content, and opportunity for a billion creators, the spectrum for DTT should be earmarked for Internet Access. Increasing the availability of spectrum will potentially enable higher quality of service for Internet connectivity, allow more users to use the Internet more effectively, and potentially lower the cost of Internet access. Ideally, this spectrum should be made available to newin an unlicensed manner for community Internet access. Alternatively, given the lack of competition in the telecom space, it may be auctioned to new entrants only.