



Telecom Regulatory Authority of India



## **Recommendations**

**on**

**Ministry of Information and Broadcasting (MIB)**

**back reference on TRAI's Recommendations dated  
19.11.2014 on "Regulatory Framework for Platform  
Services"**

**and**

**MIB reference on TRAI's Recommendations on "Platform  
Services offered by DTH Operators" dated 13.11.2019.**

**2<sup>nd</sup> February 2021**

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## CHAPTER – I: BACKGROUND

- 1.1 Ministry of Information and Broadcasting (MIB) vide their letter dated 17 January 2013 sought recommendations of TRAI under section 11 (1) (a) (ii), (iii) and (iv) of TRAI Act, 1997 (as amended) on the issues related to local ground-based channels of cable TV operators.
- 1.2 The TV channel distribution platforms primarily re-transmit broadcast TV channels permitted by MIB under their uplinking and downlinking guidelines. However, in addition to these channels, as a prevailing practice, various Distribution Platform Operators <sup>1</sup> (DPOs) are providing certain programming services which are specific to their platform and are not obtained from satellite-based broadcasters. These programming services are either produced by the DPO itself or are sourced from certain local content producers.
- 1.3 A Consultation Paper (CP) on ‘Regulatory framework for Platform Services’ was issued on 23 June 2014 to solicit the comments/views of all stakeholders on issues related to Platform Services (PS), so that an appropriate regulatory framework for PS could be put in place. Four regional Open House Discussions (OHDs) were held with the stakeholders in Mumbai (12 September 2014), Bengaluru (16 September 2014), Kolkata (19 September 2014) and New Delhi (24 September 2014). After considering the views of the stakeholders and its own analysis, the Authority issued the Recommendations on Regulatory Framework for Platform Services on 19 November 2014. It may be noted that the Authority had forwarded its recommendations on Regulatory Framework for Platform Services in 2014 when digitization process was not complete. As the process of Digitalisation has since been completed in March 2017, the recommendations for DAS areas only remain relevant now.
- 1.4 Meanwhile in 2019, TRAI received a reference from MIB vide letter no 3/1/2014-BP&L (Vol. III) dated 2<sup>nd</sup> July 2019. Herein, MIB referred the TRAI’s earlier recommendations on “Regulatory Framework for Platform

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<sup>1</sup> DPO include Multi-System Operators (MSOs), Direct to Home (DTH) service provider, Internet Protocol Television (IPTV) operators and Head-End Into The Sky (HITS) operators

Services” dated 19<sup>th</sup> November 2014 and sought TRAI recommendations by reconsidering the issues regarding platform services for DTH operators.

- 1.5 Accordingly, a Consultation Paper (CP) on ‘Platform Services offered by DTH Operators’ was issued by TRAI on 28<sup>th</sup> August 2019 to solicit the comments/views of all stakeholders on the issues related to platform services (PS). An open house discussion was also held on 15<sup>th</sup> October 2019, in Delhi, to seek the views of the stakeholders on various issues. After considering the views of the stakeholders and its own analysis, the Authority issued the Recommendations on Platform Services offered by DTH Operators on 13<sup>th</sup> November 2019<sup>2</sup>.
- 1.6 TRAI received two references from MIB, both vide letter no N-45001/1/2020-DAS dated 23<sup>rd</sup> October 2020 (Annexure I & Annexure II).
  - a. In one of the references (Annexure I), MIB has referred to the TRAI’s earlier recommendations on “Regulatory Framework for Platform Services” dated 19<sup>th</sup> November 2014 and informed TRAI that after consideration of the recommendation on “Regulatory Framework for Platform Services” dated 19/11/2014 by Inter-Ministerial Committee (IMC), the recommendations have been accepted, except Recommendation No.8. MIB has further informed TRAI that certain recommendations have been approved with modification, as indicated in MIB above referred letter and requested TRAI to furnish its recommendations on the suggested modifications.
  - b. Vide the second reference (Annexure II), wherein MIB has informed TRAI that they are examining the TRAI’s Recommendations on “Regulatory Framework for Platform Services” dated 19/11/2014, for their implementation in respect of Multi Systems Operators (MSOs) / Local Cable Operators (LCOs). MIB has mentioned that it is observed that some of the recommendations made by TRAI on 13/11/2019 regarding Platform Services offered by DTH operators could be adopted in respect of MSOs / LCOs as well as to have uniformity of guidelines in both segments. MIB has proposed to adopt the certain

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<sup>2</sup> [https://tra.gov.in/sites/default/files/Recommendation\\_13112019.pdf](https://tra.gov.in/sites/default/files/Recommendation_13112019.pdf)

recommendations, as indicated in MIB above referred letter, in respect of Platform Services offered by MSOs / LCOs also by appropriately replacing the word “DTH” with “MSO/LCO” wherever required and requested TRAI to furnish its views on the above proposal.

- 1.7 As some of the issues had not been specifically put into consultation, TRAI issued a consultation paper on 7.12.2020 on abovementioned MIB back reference on TRAI's Recommendations dated 19.11.2014 on “Regulatory Framework for Platform Services” and MIB reference on TRAI's Recommendations on “Platform Services offered by DTH Operators” dated 13.11.2019. The Consultation Paper reflected the draft response of TRAI. Written comments on the consultation paper were invited from the stakeholders by 14 December 2020 and counter comments, if any, by 19 December 2020. On the request of the stakeholders the last date for submission of comments and counter comments was extended up to 21.12.2020 and 26.12.2020 respectively. Thirty-One comments were received from various stakeholders and no counter comments were received. All the comments have been posted on TRAI’s website. After considering the observations of the MIB, written comments received from stakeholders and its own analysis, the Authority has finalised these recommendations.
- 1.8 Ensuing Chapter II contains the Authority’s earlier recommendations on issues referred, the view of MIB thereon, analysis of responses of the stakeholders and recommendations of the Authority. Chapter III summarizes the Authority’s recommendations on the subject.

## **CHAPTER – II: ISSUES, STAKEHOLDER’S COMMENTS AND RECOMMENDATIONS**

### **Part I - Response to back references dated 23<sup>rd</sup> October 2020 received from Ministry of Information and Broadcasting (MIB) on TRAI's Recommendations dated 19<sup>th</sup> November 2014**

2.1 After taking into consideration the comments received from the stakeholders and in-house analysis, the Authority has finalized its recommendations. The TRAI earlier recommendations, views of MIB thereof, analysis of responses of the stakeholders and recommendations of the Authority are as follows:

#### **A. Para 2.39 of the TRAI’s Recommendations dated 19.11.2014**

##### **Earlier Recommendation:**

2.2 Any person/ entity desirous of providing PS, or is already providing such services, must be incorporated as a company under the Indian Companies Act, 2013 and the rules framed thereunder.

##### **MIB View:**

2.3 This recommendation was not accepted by IMC in respect of MSOs/LCOs, since most of the MSOs/LCOs operated in small areas are either proprietorship or partnership firms which are not registered as companies. Making it obligatory for MSOs/LCOs to convert into companies may not be in line with the promotion of ease of doing business. IMC decided that anybody registered as a DPO, either with MIB or with post office, shall be eligible to carry PS channels.

##### **Summary of response of the stakeholders:**

2.4 In response to this issue, most of the stakeholders agreed with the proposed views of TRAI mentioned in the consultation paper. While agreeing with the TRAI views, the Broadcasters’ association and one Broadcaster have suggested that DPOs may be advised to register themselves at least as a “One Person Company” (if not as a Company) under the Companies Act 2013 wherein the process has been greatly simplified and expedited with a view to promote transparency. A broadcaster opined that a News Broadcasters has much more stringent requirements under the uplinking and downlinking guidelines. Therefore, if the DPOs offer PS in news genre without

corporatisation, they would not be subjected to the same levels of compliance as prescribed for news broadcasters. Hence, PS should not be open to offer News genre.

2.5 Quite a few MSOs have asserted that programming services offered by MSOs are already covered adequately under the Cable Television Networks (Regulations) Act (CTN Act), 1995. One stakeholder opined that MIB recommendation permitting any DPO registered with MIB or post office is eligible to provide “Platform Services” irrespective of legal status including an individual, proprietorship, partnership firm, LLP, or company is just and right. Another stakeholder commented that LCOs, should not be forced to be incorporated as a company under the Indian Companies Act, 2013. However, the MSOs and IPTV operators should be incorporated as a company under the Indian Companies Act, 2013 to make it in line with HITS and DTH requirements.

2.6 Furthermore, one stakeholder was of the opinion that MSOs/LCOs working either as Proprietorship or Partnership firms may be mandated to register under the relevant provisions to the nature of business of each business entry for the sake of Ease of Business coupled with Level Playing Field. Another stakeholder opined that there is no mechanism to control the content since the MSOs are not asked to store the content of PS for a minimum period, say at least for 30 days, to check complaints on violation of Program and Advertisement Code specified in the Cable TV Act. TRAI has to finalize a structure where only encrypted signals are sent to the consumers, including the PS (Cable channels of MSOs and LCOs).

**2.7** A few stakeholders suggested that there should not be a condition for encrypted signal and the LCOs may be allowed to add their channels at their end.

**Analysis of the issue:**

2.8 The permission to operate private satellite TV channel is granted only to Companies registered in India under the Companies Act. However, as per guidelines, a Distribution Platform Owner may or may-not be a Company. Respective guidelines for registration for DTH/ HITS/ IPTV/ MSO prescribe the eligibility conditions. A DTH or a HITS service provider needs to be registered as a company to be eligible for registration with MIB. However, an IPTV service provider or an MSO need not be a company to get a registration with MIB.

2.9 The observations made in TRAI recommendations in November 2014 as regards registration of Platform Services are important. To ensure uniformity in the legal

status of all the DPOs (and also vis-à-vis broadcasters), it was recommended that all the DPO offering PS must be registered as a company under the Companies Act. Further, the Authority had in 2014 noted that for company registration procedure have been simplified. An online system for registration of a company was in place. Thus, even small MSOs who are already registered with MIB as an individual could easily register as a company under Companies Act, 2013. The 2014 recommendations also highlight that the compliance and ownership status of a registered company is much clearer. Therefore, with a view to ensure better transparency and oversight, it was prescribed that all DPOs desirous to offer platform services should register as a company under the Companies Act.

2.10 DAS implementation ensures that the PS can only be inserted at the head-end by MSO. Given that a very large number of platform channels are possible, the issue of oversight on information spread through such channels is important. The recommendations as regards mandatory registration as company were made with the purpose of transparency and regular compliances. Platform Channels can quickly and widely spread information/ misinformation.

2.11 As per back reference MIB considers that there is no necessity to register as company for MSOs who offer platform service. However in that case, MIB should satisfy itself regarding the transparency of ownership and assurance of content of such platform services at the time of registration. MIB may ensure that registration of Platform Service Channel may enjoin the DPOs to provide full disclosure of ownership and proper undertaking for following the Programme and Advertising codes<sup>3</sup>.

2.12 In this regard, the Authority in its Recommendations on Regulatory Framework for Platform Services dated 19 November 2014 had elaborated the concerns & issues vide para 2.12 to 2.17. On the basis of the analysis the Authority dated 19<sup>th</sup> November 2014 had recommended the following:

*2.18 In so far as carrying local news and current affairs bulletins on PS is concerned, the following categories will be treated as non-news and current affairs broadcast and will, therefore, be permissible:*

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<sup>3</sup> <https://www.mib.gov.in/broadcasting/programme-and-advertising-codes>

- (i) *Information about local events and other local affairs, sourced locally and not obtained from news agencies or from broadcast news channels/ sources;*
- (ii) *Information pertaining to sporting events, excluding live coverage. However live commentaries of sporting events of local nature may be permissible, if broadcasting rights for the same are not held by anyone else;*
- (iii) *Information pertaining to Traffic and Weather;*
- (iv) *Information pertaining to and coverage of cultural events, festivals;*
- (v) *Coverage of topics pertaining to examinations, results, admissions, career counseling;*
- (vi) *Availability of employment opportunities; and*
- (vii) *Public announcements pertaining to civic amenities like electricity, water supply, natural calamities, health alerts etc. as provided by the local administration.*

*In addition, the Authority recommends that the DPO obtain prior permission from the Authorised Officer<sup>4</sup> in this regard and that the State Governments should not charge any fees for according such permission. Any DPO offering PS must ensure full adherence to the Programme and Advertising Codes prescribed under the Cable Television Network Rules, 1994.*

2.13 Therefore, the Authority is of the view that the above-mentioned category of non-news and current affairs broadcast [henceforth called permitted local news and current affairs as PS], could be very sensitive in nature. The importance of disseminating information about local affairs to the subscribers cannot be underestimated and may have implications related to Law & Order. It is noted that News and current affairs broadcasters are subjected to stringent regulatory requirements as compared to non-news and current affairs broadcasters. Keeping above in view, it is recommended that any person/ entity desirous of providing permitted local news and current affairs as PS<sup>5</sup>, or is already providing such services, must be incorporated as a company under the Indian Companies Act, 2013.

### **Recommendation of the Authority**

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<sup>4</sup> As defined in the Article 2 (a) of Cable TV Networks (Regulation) Act 1995, as amended.

<sup>5</sup> In compliance with per recommendations 2.18 of TRAI's Recommendations on Regulatory Framework for Platform Services dated 19 November 2014

**2.14** In view of the above, **TRAI has no objection to accept Ministry's view provided that Ministry of Information and Broadcasting is able to specify compliance structure to ensure that those providing platform services make full disclosure on ownership status and comply to the Programme and Advertising codes. Further, the Authority recommends that any person/ entity desirous of providing local news and current affairs as PS, or is already providing such services, must be incorporated as a company under the Indian Companies Act, 2013.**

**B. Para 2.45 of the TRAI's Recommendations dated 19.11.2014**

**Earlier Recommendation:**

2.15 A maximum number of 5 PS channels may be offered by the cable operators in non-DAS areas. In DAS areas and for all other platforms, a maximum of 15 PS channels may be offered by the DPOs. These numbers are the number of PS channels to be made available at the subscribers' end.

**MIB View:**

2.16 With the completion of digitization process, there is no distinction between DAS and non-DAS area. Further, it is noted while it is necessary to restrict capacity of PS channels carried by DPOs as recommended by TRAI, it is not in the interest of the evolving and dynamic market like Cable TV to restrict the number of PS channels. Regulation may only intervene to the point of upholding customer interests, ethical business practices, ease of doing business and safeguard against violation of programming code and advertisement code.

Taking note of this, it is recommended that the MSOs may be permitted to operate to a maximum of 5%, and LCOs to a maximum of 1%, of the total permitted satellite channel being carried by them as permitted PS channels without any upper limit.

**Summary of response of the stakeholders:**

2.17 With regards to this issue, most of the stakeholders disagree with the proposed views of TRAI mentioned in the consultation paper. Many DPOs opined that there should not be any limit on the number of platform services when there are no such

restrictions imposed on the Satellite channels. The number of platform services offered by the MSO(s)/LCO(s) should be decided by the market forces & the economic sustainability should ultimately determine whether to restrict or expand this number. One suggestion received by TRAI during the consultation process was that number of PS should be scientifically and objectively ascertained keeping in mind the subscriber base and the channel carrying capacity of the DPO. Several DPOs suggested that MIB should categorically exclude the Ground based channels from the definition of Platform services. Further, an MSO was of the opinion that restricting the entry of new PS channel may not only affect the competition but also the choice of consumers. One stakeholder has suggested that since absolute limits on the number of PS channels are undesirable, all limits must be based on a percentage of channels carried by satellite DPOs.

2.18 A DPO proposed that if there should be limits, these should be increased to 80 PS services for the HITS platform, up to 50 for MSOs and at least up to 20 for the LCO. The rationale for these numbers is that HITS platforms offer a pan-India service and must cater to multiple regions, languages, and genres to meet the requirements of their subscribers. Further, many MSOs were of the opinion that, platform services being offered by the DTH operators are satellite based and therefore, similar provisions as applicable to satellite-based channels should be applicable to such platform services. Moreover, in terms of the DTH Guidelines issued by the MIB, the DTH operators are prohibited from offering any platform services. Furthermore, many broadcasters suggested that it is essential that all PS are inserted directly and solely from DPO's headend and that frequencies (whether for inserting PS or otherwise) should not be permitted to be left unencrypted else, it may lead to misuse of such frequencies (inter-alia for making available pay channels).

2.19 Many broadcasters proposed that each DPO carrying less than 500 permitted satellite channels should be allowed a maximum of 10 PS. Whereas, DPOs carrying more than 500 permitted satellite channels should be allowed a maximum of 15 PS. Further quite a few broadcasters have commented that in view of the large number of local cable operators ("LCO"), they should not be permitted to operate the Platform Services as with more than 60,000 LCOs present, it would be almost unreasonable to monitor the content from the point of view of Program and Advertising Code. A broadcaster opined that the number of PS channels should be much less than what

is being proposed. Whereas another broadcaster opined that such restrictions are misplaced and will affect the growth of PS channels.

2.20 Another stakeholder stated that there is no rationale for fixing any limit on the number of PS and that they support the MIB view of putting a total percentage cap on total permitted satellite channels. An MSO suggested that while there might be a case for restricting the number of platform services on the DTH platform, but there is no need for imposing the same restriction on MSOs / LCOs due to the inherent differences in the nature of the two platforms. Another MSO suggested that individual LCO should always be responsible for any PS that they are inserting themselves, particularly in a HITS architecture.

2.21 An individual stakeholder opined that PS channels may be allowed in proportion to the connectivity (number of households the DPO is serving and by agreeing to run as many as 1% of the satellite channels they carry, MIB and TRAI are expressly allowing the LCOs to resort to piracy. Another individual stakeholder was of the opinion that Authority recommendations may prevail subject to modifications as per the recent Gazette Notification regarding Allocation of Business of MIB while finalising the recommendations.

2.22 A few LCOs and one of their association opined that LCOs should be allowed to run 1% of the total channels they distribute as suggested by MIB.

**Analysis of the issue:**

2.23 It is reiterated that the Authority had forwarded its recommendations on Regulatory Framework for Platform Services in 2014 when digitization process was not complete. As the process of Digitalisation has since been completed in March 2017, only the recommendations for DAS remain relevant.

2.24 The Authority is of the view that the domain and functioning of the DPOs is different from that of the broadcasters. In general, the Distributors of Platform Services primarily have to carry the content produced by the broadcasters, and not to produce their own content. The main purpose of granting permission/ registration/ license to Distribution Platform Operators (DPOs) is distribution of TV channels covered under uplinking/ downlinking guidelines. Thus, it is essential that the major portion of the distribution capacity of these platforms is used for the intended

purpose. A small portion of this distribution capacity may be used for PS so as to meet the specific need of the subscribers of these DPOs.

2.25 It is important to note that there are more than 900 registered television channels. These channels can only reach the consumers through the networks of DPOs. Sufficient channel carrying capacity is therefore necessary for these broadcasters too. Moreover, among the registered televisions channels, there is sufficient spread across regional languages and genres. Therefore, there is no pressing requirement, for many PS channels.

2.26 One must note that a television channel is a mechanism to disseminate information and has the ability to create opinions. When a consumer watches a channel, the impact and effect remain same for satellite channels or Platform Service channels. In fact, in some cases the impact of platform channel may be more as they are more local and may be more relevant for the viewers. At present there are more than sixteen hundred (1600) registered MSOs. A simple calculation with fifteen Platform Services, each exclusive to respective DPO suggests that there can be more than Twenty-four thousand (24000) platform services. Given the limitations on oversight mechanism available for such channels, any more leverage to increase the number of channels further will put unbearable strain on monitoring/ oversight. The technical arrangement in DAS is such that a Television Channel can only be inserted at Head-end. Even if an LCO wishes to provide his channel, the feed for same must be provided at the head-end of the MSO. It is very much possible for an MSO to allocate some channels out of available limit of fifteen PS channels to LCOs. As all the channels are inserted at the level of MSO, it will be responsibility of the MSO to register such platform channels. This will provide sufficient pool of availability on networks for registered satellite television channels.

2.27 It is also pertinent to ensure that liberal regulatory framework of PS should not encourage bypassing of registration as broadcaster. In case, there is compelling regional content available, such entity can register itself as a broadcaster. In such cases, MIB may ensure adherence to Vertical Integration guidelines amongst broadcasters and DPOs. The ability to provide a large number of PS channels presents an arbitrage opportunity for DPOs as they may circumvent the regulations on broadcasting.

2.28 In view of discussions in the pre paras, the Authority is of the view that a maximum of 15 PS channels may be offered by MSOs, IPTV Operators and HITS operators.

2.29 The Authority is also of the view that it is not desirable to separately specify the limit on number of PS channels that may be offered by the MSOs and LCOs. This may be left to the mutual arrangement among MSOs and LCOs. An MSO may remain responsible for all the platform service channels being offered on its platform.

### **Recommendation of the Authority**

**2.30 In view of above, the Authority recommends that a maximum of 15 PS channels may be offered by MSOs, IPTV Operators and HITS operators.**

### **C. Para 2.52 of the TRAI's Recommendations dated 19.11.2014**

#### **Earlier Recommendation:**

2.31 The Authority notes that all DPOs, other than MSOs and LCOs operating in non-DAS areas, are already security cleared. For these MSOs and LCOs, the Authority recommends that at any time before the MIB obtains the security clearance, it is determined that the programming service offered on PS and which has been registered on the online system is inimical to India's national security or to the public interest, MIB may require the DPO to withdraw from distribution the PS Channel or the programming service and/ or cancel the registration.

#### **MIB View:**

2.32 TRAI's assumption that all the DPOs operating in DAS areas are security cleared is not correct since security clearance for LCOs is not a pre-requisite for grant of registration. Further, with the completion of digitization process there is no distinction between the DAS and non-DAS areas. At present about 72% MSOs are not security cleared by MHA as during their registration period security clearance was not a pre-requisite. More so, none of the LCOs are security cleared.

2.33 Taking note of this, it is recommended to extend TRAI recommendation for security clearance of MSOs/LCOs in non-DAS areas, to all MSOs / LCOs who are not security cleared and wish to offer PS to their subscribers.

2.34 That is to say, MIB will obtain security clearance of all MSOs / LCOs, who wish to offer PS and were not MHA security cleared at the time of registration, while they run their PS. However, if at any time before the MIB obtains the security clearance, it is determined that the programming service offered on PS and which has been registered on the online system is inimical to India's national security or to the public interest, MIB may require the MSO / LCO to withdraw from distribution of the PS Channel or the programming service and / or cancel the registration.

**Summary of response of the stakeholders:**

2.35 In response to this issue, most of the stakeholders agreed with the proposed views of TRAI mentioned in the consultation paper. However, many MSOs suggested that the responsibility of all regulatory compliances including obtaining security clearance and/or registration should be of the respective MSO or LCO, as the case may be. Further, many MSOs also proposed that to avoid disruption of PS services, one-year time period may be offered to the existing PS providers to get security clearance from the date of notification of the regulations along with guidelines to obtain the security clearance. One of the stakeholders opined that security clearance as is required in the case of Broadcasters should be applicable mutatis mutandis in the case of MSO / LCO / DTH operators.

2.36 Moreover, a DPO suggested that MSO/HITS platforms and all LCOs should be security cleared in order to be able to insert PS into their networks. Further that whilst the security clearance is underway, LCOs should continue to be able to insert PS to avoid impacts on their business. A DTH operator was of the view that security clearance should be mandated for all DPOs as it will only ensure level playing field and necessary changes should be brought in the registration process of the LCO. Further that if the security clearance for everyone is not possible, then it should be mandated at least for those who run PS channel. Further a broadcaster opined that security clearance as required by Broadcasters should be applicable on mutatis-mutandis basis in the case of MSO / LCO / DTH operators.

2.37 Many stakeholders opined that any restriction on freedom of speech and expression needs to come within the eight listed grounds under Article 19(2) of the Constitution of India and 'public interest' is not a ground available thereunder. Cardinal principles of the Constitution of India must be applied in letter and spirit

while deciding the issues which relate to dissemination of content through PS. A few LCOs and one of their association disagreed with TRAI's viewpoint and suggested that it may not be possible and feasible for all the LCOS to get security clearance. Hence the idea may be dropped. One broadcaster has submitted that the security clearance for MSOs/LCOs providing PS channels is not appropriate and serves no purpose. A strict compliance with the programme and advertising codes is a MUST for any content across any media.

2.38 Further, many MSOs requested TRAI to put in place a comprehensive regulatory framework for the OTT platforms as well, since they are also providing platform services and illegal retransmission of registered satellite channels.

### **Analysis of the issue:**

2.39 The Authority had forwarded its recommendations on Regulatory Framework for Platform Services in 2014 when digitization process was not complete. It is desirable that all the MSOs offering PS are security cleared. Moreover, the ownership structure of an MSO may change at any time. In such a scenario it is very important that such MSOs make full disclosure of their ownership status to MIB and comply with extant rules and regulations. Therefore, TRAI recommends that MIB may review the security clearance of all DPOs (who are offering PS) when there is any change in the ownership structure of a service provider.

2.40 An important aspect of security clearance arises whenever a change in ownership/ control of an entity providing PS takes place. In such scenario it is prudent that such organisation submits itself for review of the security clearance and disclose the changes in ownership/ control structure. MIB may devise a mechanism to seek explicit undertaking of the DPOs at the time of granting the registration for providing PS. Further, MIB may devise a periodic oversight procedure to monitor any unreported changes in ownership/ control and expedient action.

2.41 As regards the suggestions/ comments regarding OTTs, it is noted that the same is not the subject matter of current consultation.

### **Recommendation of the Authority**

**2.42 In view of above, TRAI agree with the suggestion given by MIB. Further MIB may establish a procedure to review the security clearance of all DPOs (who are offering PS) including those wherever there is any change in their ownership/control. MIB may obtain requisite undertaking from the DPOs at the**

**time of granting permission for offering PS for duly notifying MIB in case of change of ownership/ control.**

**Part II- Response to the reference dated 23<sup>rd</sup> October 2020 received from Ministry of Information and Broadcasting (MIB) on TRAI's Recommendations dated 13<sup>th</sup> November 2019**

2.43 The Authority has examined the observations of the MIB on its recommendations dated 19.11.2014 and 13.11.2019. However, it may be noted that Authority has considered only the points mentioned in the said MIB letter. The TRAI recommendations, views of MIB thereof, analysis of responses of the stakeholders and recommendations of the Authority are as follows:

**D. Para 2.7 of the TRAI's Recommendations dated 13.11.2019**

**Earlier Recommendation:**

2.44 The Authority reiterates the definition of PS as recommended in 'Regulatory Framework for Platform Services' dated 19th November 2014. The definition of platform services (PS) for DTH operators shall be:

*"Platform services (PS) are programs transmitted by Distribution Platform Operators (DPOs) exclusively to their own subscribers and does not include Doordarshan channels and registered TV channels. PS shall not include foreign TV channels that are not registered in India."*

Registered TV channels or television channels means a channel, which has been granted downlinking permission by the Central Government under the policy guidelines issued or amended by it from time to time and reference to the term "channel" shall be constructed as a reference to "television channel".

**MIB View:**

2.45 It is proposed to adopt the above recommendations in respect of Platform Services offered by MSOs / LCOs also by appropriately replacing the word "DTH" with "MSO/LCO" wherever required

**Summary of response of the stakeholders:**

2.46 With regards to the definition of platform services, many MSOs suggested that the word 'programme' should be replaced with the term 'programme services. They proposed the following definition for platform services:

***"Platform Service"*** – are programme services transmitted in the form of channel through the addressable systems of Distribution Platform Operators

*(DPOs) exclusively to their own subscribers and does not include Doordarshan channels, ground-based channels and satellite TV channels”*

2.47 Many stakeholders have opined that issues such as, exclusivity of content on PS channels must be decided by market forces, following principles recognised under the Copyright Act. Similarly, a DTH operator also suggested that TRAI may not mandate content/programme exclusivity. One of the suggestions was that definition of Platform Services, ought not allude to exclusivity since, content on platform service channels, like any other TV channel, is copyright protected. An MSO has suggested that ground-based channels need to be defined in CTN act/ regulations to bring clarity.

2.48 A DPO opined that in the definition of Platform services the words ‘*and/or their linked LCOs in the case of HITS operators*’ may be added after the words ‘Distribution Platform Operators (DPOs)’. A broadcaster emphasized that in the definition of Platform services, the words ‘*within their area of operations*’ may be added after the words ‘exclusively to their own subscribers’. Another broadcaster has proposed that definition of PS should include all programs other than DD and permitted satellite channels by the Central Government (CG) permitted to be transmitted to their subscribers only. Another suggestion is that any rule permitting PS by MSOs / LCOs / DTH shall be subject to all such restrictions or to the least minimum which can further the objectives of such restrictions and not defeat them.

2.49 An Association has commented that the Authority should consider the inclusion of ground-based channels along with Doordarshan channels and registered TV channels. In addition, they also urged the authority to consider the potential negative impact of restricting market mechanisms and agreements, such as those around exclusivity. These should be left to market forces.

**Analysis of the issue:**

2.50 The suggestion by the Ministry to apply relevant provision to MSOs is quite germane. Since completion of digitalisation, the Authority has endeavoured to a common regulatory regime. It is important to note that in DAS networks, the PS channels can only be inserted at the Head-end by the MSOs. The 2019 consultation by TRAI was specific to DTH service providers, provision mentioned in MIB reference is quite similar to the recommendation made by TRAI in November 2014. The

definition of platform services recommended by the Authority in its 'Recommendations on Platform Services offered by DTH Operators' dated 13<sup>th</sup> November 2019 is the same which the Authority had recommended in its recommendations dated 19<sup>th</sup> November 2014. Some explanation pertaining to Registered TV channels or television channels or channel has been added in 2019. There is no material change in the definition of platform services owing to this explanation.

2.51 The issues with regards to exclusivity of the content on PS, have been addressed in details in its recommendations dated 19<sup>th</sup> November 2014. Similarly, the issue of the ground based channels, has also been addressed in its previous recommendations. It is necessary to ensure that any TV channel distributed through any TV network in India is covered by a regulatory framework. Based on back-reference, MIB has conveyed that all other recommendations made as part of 'Regulatory Framework for Platform Services' dated 19<sup>th</sup> November 2014 have been accepted vide the letter under reference herein (Annexure I). The Authority expects that the recommendations on Ground based broadcasters will be implemented soon.

#### **Recommendation of the Authority**

**2.52 Authority, therefore, agrees with the views of MIB. The definition of Platform Services (PS) shall be:**

***“Platform services (PS) are programs transmitted by Distribution Platform Operators (DPOs) exclusively to their own subscribers and does not include Doordarshan channels and registered TV channels. PS shall not include foreign TV channels that are not registered in India.”***

**Registered TV channels or television channels means a channel, which has been granted downlinking permission by the Central Government under the policy guidelines issued or amended by it from time to time and reference to the term 'channel' shall be constructed as a reference to 'television channel'.**

#### **E. Para 2.16 of the TRAI's Recommendations dated 13.11.2019**

##### **Earlier Recommendation:**

2.53 The Authority recommends that:

(a) The programme transmitted by the DTH operator as a platform service shall be exclusive and the same shall not be permitted to be shared directly or indirectly with any other Distribution Platform Operator (DPO).

(b) Programme transmitted by the DTH operator as a platform service shall not directly or indirectly include any registered TV channel or Doordarshan channel or foreign TV channel. Time-shift feed of registered TV channels (such as +1 services) shall not be allowed as a platform service.

(c) DTH operator shall ensure and provide an undertaking to the Ministry in the format prescribed by the Ministry that the programme transmitted is exclusive to their platform and not shared directly or indirectly with any other DPO.

(d) In case the same programme is found available on the PS of any other DPO, MIB/TRAI may issue direction to immediately stop the transmission of such programme. MIB also reserves the right for cancellation of registration of such PS of the DTH operator.

**MIB View:**

2.54 It is proposed to adopt the above recommendations in respect of Platform Services offered by MSOs / LCOs also by appropriately replacing the word “DTH” with “MSO/LCO” wherever required

**Summary of response of the stakeholders:**

2.55 In response to this issue, many MSOs differed with regard to the paras of the recommendation (a) (c) and (d) of the Authority. Further most of the MSOs opined that equating DTH with MSO(s)/LCO(s) is fundamentally incorrect as they are incredibly different in terms of their licensing conditions, subscriber base, organization structure, mode of transmission et cetera. Hence, prescribing a uniform regulatory regime is highly erroneous, unfair and unequal. Further, a DPO commented that platform services (being offered illegally as on date) by the DTH operators are satellite based and therefore, the provisions as applicable to satellite based channels should be applicable to the platform services offered by the DTH operators including applicable fees, eligibility criteria and other conditions.

2.56 Furthermore, many MSOs proposed that sharing of platform channels should be permitted as this helps MSO's in saving cost. In addition, they also opined that channels telecasting live content from religiously famous temples etc. should not be considered as platform channels. They also commented that multiple LCN's telecasting same Near Video-on-demand (NVOD<sup>6</sup>) content is necessarily to be considered as one platform channel. They also suggested that TRAI and MIB should register the Platform Channel operators and should go for security clearance. But content of Platform Channel should be responsibility of the PC operator and not DPO.

2.57 Many broadcasters were of the opinion that only condition that may be included is that the programmes available on PS of a DPO should be exclusive to its own network / subscribers, and that such PS should not be shared with / made available to other DPO. Further, some stakeholders also opined that only condition that may be included is that the programmes available on PS are in adherence with the stipulations of the Programme code found in the Cable Television Network Act, provisions of Article 19 (2) of the Constitution of India. A broadcaster commented that programming under the PS offered by DPOs shall not include news and current affairs.

2.58 Further a suggestion was that there is no basis to demand exclusivity of programmes / content on PS, and neither does any such exclusivity prevail for the content and programming on MIB TV Channels. The 'exclusivity of content' is a matter concerning licensing / sub-licensing of content, which issues are clearly subject to and governed by the Copyright Act. There is no statute or law grounded in any reasonable rationale that empowers the authority or the MIB to, prescribe terms or conditions that impact the licensing of content, or unreasonably restrict the business, trade or profession of the content licensor or the content licensee. Similarly, one stakeholder opined that sharing of the programmes of the Platform Services (PS) with other DPOs should be allowed without any exclusivity. Section 14 of The Copyright Act, 1957 entitles the copyright owner to seek maximum commercialisation of their content by "communicating the same to the public". A restriction, like exclusivity of programmes on the PS of any one DPO limits the scope of exercise of rights of a Copyright owner and this negates the spirit of the Copyright law. In addition, a DPO

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<sup>6</sup> NVOD or Near Video on Demand is a video delivery service. It allows a viewer to choose from a restricted number of broadcast video channels when they are broadcasted. NVOD channels are used for Pay-Per-View services and they have pre-designated schedule times. In NVOD, programs made available for selection are broadcast at staggered intervals (e.g. 20 minutes) on a group of channels, so that the viewer can select the most suitable start-time. <https://www.muvi.com/wiki/nvod-near-video-demand.html>

commented that issues such as the exclusivity of content on PS channels must be decided by market forces only. An association also urged the Authority to reconsider the provisions around exclusivity of PS channels.

2.59 A DPO commented that most content/programmes are purchased from content distributors who sell the rights to multiple DPOs/broadcasters. How will one DPO know whether that content/programme has been sold to other DPOs also? Similarly, a DTH operator highlighted that DPOs are sourcing their content from third party content providers for their platform services. Now if exclusivity is mandated, the cost of the content would not only get more or more, the same will also promote monopolistic practices by the DPOs to acquire any content for their exclusive platform and thereby depriving the subscribers of other platforms to view the same. This would surely be restrictive for the competition and will have tremendous negative impact on the market.

2.60 Similarly, a few LCOs and one of their association also commented that this is detrimental to the interests of the LCOs. For economic reasons, the LCOs procure content from certain content creating agencies on a monthly subscription basis. In such a situation, the content may be seen on multiple platforms in different markets. Further, an individual stakeholder highlighted that usually, the LCOs depend on some content selling agencies since the cost of the creation of exclusive content is too high. Some agencies supply at least 5-8 hours of content per day on a monthly subscription of Rs. 5,000 to 8,000. In such a scenario, if there is a condition that content duplication is not allowed, it is highly difficult for the LCOs to run cable channels.

**Analysis of the issue:**

2.61 Issues related to exclusivity of content have already been discussed in its previous recommendations. It is reiterated that the Authority is of the view that Platform services (PS) should be programs transmitted by Distribution Platform Operators (DPOs) exclusively to their own subscribers. PS channel is not (and should not become) a normal satellite broadcasting channel. In case there is a channel that is popular across cities/ region, they may seek registration as a broadcaster.

2.62 As regards the responsibility of the content on PS channels, the Authority notes that every DPO is required to comply with the Programme and Advertising Codes. Therefore, it is inherent that every distributor remains responsible for the content offered on their respective PS channels.

2.63 With regards to offering news and current affairs on PS channels, Authority is of the opinion that allowing DPOs to freely include news content in their PS is neither fair to news broadcasters nor advisable. Unhindered (unregulated) dissemination of local news & current affairs has significant security implications. Therefore, only local affairs/ information bulletins sourced entirely from local resources, should be allowed on PS channels run by a cable operator. News from news agency sources or national/ international news derived from broadcast TV channels should not be permitted to be transmitted as content of PS.

2.64 With a view to ensure uniformity of guidelines of DTH operators and MSOs, the recommendations made for DTH may be applicable to all DPOs including MSOs.

#### **Recommendation of the Authority**

**2.65 The Authority agrees with the views of MIB. The Authority recommends that:**

**(a) The programme transmitted by the Direct To Home (DTH) operator/ Multi Systems Operators (MSOs)/ Internet Protocol Television (IPTV)/ Head-End Into The Sky (HITS) operator as a platform service shall be exclusive and the same shall not be permitted to be shared directly or indirectly with any other Distribution Platform Operator (DPO).**

**(b) Programme transmitted by the DTH operator/ MSOs/ IPTV/ HITS operator as a platform service shall not directly or indirectly include any registered TV channel or Doordarshan channel or foreign TV channel. Time-shift feed of registered TV channels (such as +1 services) shall not be allowed as a platform service.**

**(c) DTH operator/ MSOs/ IPTV/ HITS operator shall ensure and provide an undertaking to the Ministry in the format prescribed by the Ministry that the**

**programme transmitted is exclusive to their platform and not shared directly or indirectly with any other DPO.**

**(d) In case the same programme is found available on the PS of any other DPO, MIB/TRAI may issue direction to immediately stop the transmission of such programme. MIB also reserves the right for cancellation of registration of such PS of the DTH operator/ MSOs/ IPTV/ HITS operator.**

**F. Para 2.37 of the TRAI's Recommendations dated 13.11.2019**

**Earlier Recommendation:**

2.66 The Authority recommends that the DTH operators shall provide an option of activation/deactivation of platform services as prescribed in the orders/directions/regulations issued by TRAI from time-to-time.

**MIB View:**

2.67 It is proposed to adopt the above recommendations in respect of Platform Services offered by MSOs / LCOs also by appropriately replacing the word "DTH" with "MSO/LCO" wherever required

**Summary of response of the stakeholders:**

2.68 With regards to the option of activation/deactivation of platform services, many stakeholders were in agreement with the proposed views of TRAI mentioned in the consultation paper. In fact, many MSOs indicated that they are already providing this option of activation/deactivation of platform services to the subscribers/consumers.

2.69 However, a number of MSOs proposed that if the platform service is a free service and part of the DPO bouquet chosen by the subscriber such deactivation of a particular channel shall not be mandatory. Similarly, some broadcasters suggested that in case the PS services are offered free of cost by the DPO, then it may be provided in default to the viewer, however if the viewer specifically chooses to unsubscribe even such free Platform service, it should be provided with an option for unsubscribing without condition. A DPO commented that they are in agreement with TRAI/MIB that any PS should be fully addressable and the option to activate/deactivate these services should be there at all times both with the MSO/HITS operators as well as

with the LCOs. One suggestion received was that PS channels should not be counted for the purpose of network capacity fee by DPOs.

2.70 Further, a broadcaster was of the opinion that similar approach should also be adopted in the case of news channels (especially which are FTA like PS or are priced at a nominal or negligible amount) which should be compulsorily and mandatorily carried by the DPOs and the consumer choice should be given primacy qua viewing and not subscribing of channels like PS.

2.71 However, An Association has observed that TRAI does not has legislative basis to bring platform services under its regulatory ambit. Further an association also urged the authority to exercise restraint in the regulation of PS, as they have the potential to help local providers effectively differentiate their offerings, especially in competitive markets.

**Analysis of the issue:**

2.72 It may be noted that in the Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017, dated 3<sup>rd</sup> March 2017, the procedure for activation and deactivation of channels has been prescribed vide regulation 6 & 7.

2.73 The TRAI Act entrusts TRAI, amongst others, with the functions to ensure technical compatibility and effective interconnection between different service providers, fix the terms and conditions of interconnectivity between the service providers, and regulate arrangement amongst service providers for sharing their revenue derived from providing telecommunication services. In addition, TRAI, being a sectoral regulator, has been inter-alia entrusted with the task of ensuring a level playing field and fair competition. Therefore, TRAI has power to look at all issues including activation and deactivation of PS.

2.74 With regards to compulsorily and mandatory carriage of news channel on DPO's platform, the Authority believes that adequate provisions have been made under the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017. The 'must carry' principle removes the entry barrier for channels and ensures that the network is accessible for distribution of channel. 'Must carry' makes it obligatory on part of DPOs to carry signals of TV channels of

broadcasters, on receipt of written request for the same, on non-discriminatory basis provided DPO has enough spare channel carrying capacity.

2.75 The primary objective of the new regulatory framework introduced by TRAI in 2017 was that the consumer becomes real decision maker of what she/he views and has complete freedom to choose what he/she wishes to watch and pay only for that. The new regulatory framework mandates that all channels available on the distribution platform of a DPO have to be offered on a-la-carte basis (along with bouquet). Therefore, as an underlying principle DPOs cannot be allowed to force consumers to opt for a particular channel, even a PS. The Authority is of the opinion that even if a platform service channel(s) is free, the respective consumers should have the decision-making power as regards activating/ deactivating the channel.

2.76 The suggestion by the Ministry to apply relevant provision to MSOs is quite apt. Since completion of digitalisation, the Authority has endeavoured to achieve a common regulatory regime. It is important to note that since November 2014 market dynamics have changed. Though, the 2019 consultation by TRAI was specific to DTH service providers, provisions mentioned in MIB reference are quite common and pro-consumer. DAS system provides for the features related to activation/ deactivation of channels on a-la-carte basis. This should be applied on all DPOs including the MSOs to help the consumers in exercising their choice.

### **Recommendation of the Authority**

**2.77 The Authority agrees with the views of MIB. The Authority recommends that the DTH operator/ MSOs/ IPTV/ HITS operator shall provide an option of activation/deactivation of platform services as prescribed in the orders/directions/regulations issued by TRAI from time-to-time.**

### **G. Para 2.45 of the TRAI's Recommendations dated 13.11.2019**

#### **Earlier Recommendation:**

2.78 The Authority recommends that:

(a) The platform services channels shall be categorized under the genre 'Platform Services' in the Electronic Programmable Guide (EPG) subject to orders/directions/regulations issued by TRAI from time-to-time.

(b) The respective maximum retail price (MRP) of the platform service shall be displayed in the EPG against each platform service subject to orders/directions/regulations issued by TRAI from time-to-time.

(c) A provision for putting a caption as 'Platform Services' may be required to distinguish the platform services from the linear channels. Government may decide the caption in a size which is visually readable by the consumers.

**MIB View:**

2.79 It is proposed to adopt the above recommendations in respect of Platform Services offered by MSOs / LCOs also by appropriately replacing the word "DTH" with "MSO/LCO" wherever required

**Summary of response of the stakeholders:**

2.80 In response to this issue, many stakeholders agreed with the proposed views of TRAI mentioned in the consultation paper. Broadcasters opined that there should be separate categorization of PS in the EPG under new / separate genre "Platform Services". In this regard, it is necessary to mandate provision for displaying name and sequence number of PS channels in a font size under the heading 'PS' on TV screen so as to distinguish them from the regular TV channels. Similarly, a broadcaster suggested that all PS channels MUST be clearly titled and listed under separate EPG in different colour, font, number series after the end of satellite channels listing.

2.81 A suggestion/comment received was TRAI doesn't have the legislative basis to bring PS under its regulatory umbrella. An association urged the authority to exercise restraint in the regulation of the platform services, since when left largely to market forces, PS have the potential to help local providers effectively differentiate their offerings, especially in competitive markets.

2.82 Further, a DPO proposed that all PS should be placed in their own genre. However, in the case of HITS/MSOs, there should be a differentiation to shows those PS that are inserted by the MSO/HITS operator and those that are inserted by the LCOs. A DPO suggested that, it should not be mandatory for the MSO(s) to have a separate genre in the EPG named "PS" and it should be open for them to place the platform services in the respective genres, so as to give a better viewing experience and choice within the genre, to the subscribers.

### **Analysis of the issue:**

2.83 The issue regarding powers of TRAI as per TRAI act has been dealt in previous issues. As per extant regulations, TRAI has notified nine genres - 'Devotional', 'General Entertainment', 'Infotainment', 'Kids', 'Movies', 'Music', 'News and Current Affairs', 'Sports' and 'Miscellaneous'. The broadcasters have to declare the genre of its channels and the distributors have to place all the television channels available on its platform in the electronic programme guide, in such a manner that all the television channels of a particular language in a genre are displayed together consecutively and one television channel shall appear at one place only. The Authority is of the view that the PS channels should be placed separately on the EPG and such channels should be placed under the genre 'Platform Services'. Consumers should be able to identify such channels and to make an informed choice regarding selection of these platform services

2.84 The Authority is of the view that placement of platform services in between the channels of the broadcasters should not be permitted. A separate genre should be constituted to place such channels. A provision for putting a caption as 'Platform Services' may be required to distinguish the platform services from the linear TV channels. This will bring clarity in the minds of consumers. MIB may decide the caption in a size which is visually readable by the consumers.

2.85 To ensure uniformity of guidelines of DTH operators and MSOs, it is desirable that abovementioned recommendations may also be applicable to MSOs. It is also pertinent to note that since November 2014 market dynamics have changed. As mentioned earlier, though, the 2019 consultation by TRAI was specific to DTH service providers, provisions mentioned in MIB reference are quite common and pro-consumer. DAS system provides for the features related to classification on EPG, which should be applied on all DPOs including MSOs. This feature will assist the consumers in getting explicit information on their TV screen.

### **Recommendation of the Authority**

**2.86 The Authority agrees with the views of MIB. The Authority recommends that for the DTH operator/ MSOs/ IPTV/ HITS operator:**

**(a) The platform services channels shall be categorized under the genre 'Platform Services' in the Electronic Programmable Guide (EPG) subject to orders/directions/regulations issued by TRAI from time-to-time.**

**(b) The respective maximum retail price (MRP) of the platform service shall be displayed in the EPG against each platform service subject to orders/directions/regulations issued by TRAI from time-to-time.**

**(c) A provision for putting a caption as 'Platform Services' may be required to distinguish the platform services from the linear channels. Government may decide the caption in a size which is visually readable by the consumers.**

## **CHAPTER – III: SUMMARY OF RECOMMENDATIONS**

### **Part I - Response to back references dated 23<sup>rd</sup> October 2020 received from Ministry of Information and Broadcasting (MIB) on TRAI's Recommendations dated 19<sup>th</sup> November 2014**

#### **A. Para 2.39 of the TRAI's Recommendations dated 19.11.2014**

##### **Recommendations**

3.1 TRAI has no objection to accept Ministry's view provided that Ministry of Information and Broadcasting is able to specify compliance structure to ensure that those providing platform services make full disclosure on ownership status and comply to the Programme and Advertising codes. Further, the Authority recommends that any person/ entity desirous of providing local news and current affairs as PS, or is already providing such services, must be incorporated as a company under the Indian Companies Act, 2013.

#### **B. Para 2.45 of the TRAI's Recommendations dated 19.11.2014**

##### **Recommendations**

3.2 The Authority recommends that a maximum of 15 PS channels may be offered by MSOs, IPTV Operators and HITS operators.

#### **C. Para 2.52 of the TRAI's Recommendations dated 19.11.2014**

##### **Recommendations**

3.3 TRAI agree with the suggestion given by MIB. Further MIB may establish a procedure to review the security clearance of all DPOs (who are offering PS) including those wherever there is any change in their ownership/control. MIB may obtain requisite undertaking from the DPOs at the time of granting permission for offering PS.

**Part II- Response to the reference dated 23<sup>rd</sup> October 2020 received from Ministry of Information and Broadcasting (MIB) on TRAI's Recommendations dated 13<sup>th</sup> November 2019**

**D. Para 2.7 of the TRAI's Recommendations dated 13.11.2019**

**Recommendations**

3.4 Authority, agrees with the views of MIB. The definition of Platform Services (PS) shall be:

*“Platform services (PS) are programs transmitted by Distribution Platform Operators (DPOs) exclusively to their own subscribers and does not include Doordarshan channels and registered TV channels. PS shall not include foreign TV channels that are not registered in India.”*

Registered TV channels or television channels means a channel, which has been granted downlinking permission by the Central Government under the policy guidelines issued or amended by it from time to time and reference to the term ‘channel’ shall be constructed as a reference to ‘television channel’.

**E. Para 2.16 of the TRAI's Recommendations dated 13.11.2019**

**Recommendations**

3.5 The Authority agrees with the views of MIB. The Authority recommends that:

(a) The programme transmitted by the Direct To Home (DTH) operator/ Multi Systems Operators (MSOs)/ Internet Protocol Television (IPTV)/ Head-End Into The Sky (HITS) operator as a platform service shall be exclusive and the same shall not be permitted to be shared directly or indirectly with any other Distribution Platform Operator (DPO).

(b) Programme transmitted by the DTH operator/ MSOs/ IPTV/ HITS operator as a platform service shall not directly or indirectly include any registered TV channel or Doordarshan channel or foreign TV channel. Time-shift feed of registered TV channels (such as +1 services) shall not be allowed as a platform service.

(c) DTH operator/ MSOs/ IPTV/ HITS operator shall ensure and provide an undertaking to the Ministry in the format prescribed by the Ministry that the programme transmitted is exclusive to their platform and not shared directly or indirectly with any other DPO.

(d) In case the same programme is found available on the PS of any other DPO, MIB/TRAI may issue direction to immediately stop the transmission of such programme. MIB also reserves the right for cancellation of registration of such PS of the DTH operator/ MSOs/ IPTV/ HITS operator.

**F. Para 2.37 of the TRAI's Recommendations dated 13.11.2019**

**Recommendations**

3.6 The Authority agrees with the views of MIB. The Authority recommends that the DTH operator/ MSOs/ IPTV/ HITS operator shall provide an option of activation/deactivation of platform services as prescribed in the orders/directions/regulations issued by TRAI from time-to-time.

**G. Para 2.45 of the TRAI's Recommendations dated 13.11.2019**

**Recommendations**

3.7 The Authority agrees with the views of MIB. The Authority recommends that for the DTH operator/ MSOs/ IPTV/ HITS operator:

(a) The platform services channels shall be categorized under the genre 'Platform Services' in the Electronic Programmable Guide (EPG) subject to orders/directions/regulations issued by TRAI from time-to-time.

(b) The respective maximum retail price (MRP) of the platform service shall be displayed in the EPG against each platform service subject to orders/directions/regulations issued by TRAI from time-to-time.

(c) A provision for putting a caption as 'Platform Services' may be required to distinguish the platform services from the linear channels. Government may decide the caption in a size which is visually readable by the consumers.

N-45001/1/2020-DAS  
 Government of India  
 Ministry of Information and Broadcasting  
 ShastriBhawan, New Delhi-110001

Dated 23/10/2020

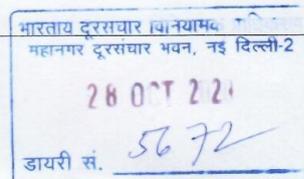
To  
 Shri Sunil K. Gupta  
 Secretary  
 Telecom Regulatory Authority of India  
 Mahanagar Doorsanchar Bhawan,  
 New Delhi

**Subject: TRAI's Recommendation on "Regulatory Framework for Platform Services" dated 19/11/2014-reg.**

Sir,

I am directed to refer to TRAI's recommendations dated 19/11/2014 on the subject mentioned above and to say that after consideration of the recommendation on "Regulatory Framework for Platform Services" dated 19/11/2014 by Inter-Ministerial Committee (IMC), the recommendations have been accepted, except Recommendation No. 8. Further, the following recommendations have been approved with modification as under:-

<i>Recommendation of TRAI</i>	<i>Approved/Rejected with modifications</i>
<p>Recommendation No. 8: "Any person/entity desirous of providing PS, or is already providing such services, must be incorporated as a company under the Indian Companies Act, 2013 and the rules framed thereunder."</p>	<p>This recommendation was not accepted by IMC in respect of MSOs/LCOs, since most of the MSOs/LCOs operated in small areas are either proprietorship or partnership firms which are not registered as companies. Making it obligatory for MSOs/LCOs to convert into companies may not be in line with the promotion of ease of doing business. IMC decided that anybody registered as a DPO, either with MIB or with post office, shall be eligible to carry PS channels.</p>

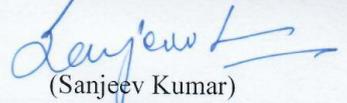


<p>Recommendation No. 9: <i>“A maximum number of 5 PS Channels may be offered by the cable operators in non-DAS areas. In DAS areas and for all other platforms, a maximum of 15 PS channels may be offered by the DPOs. These numbers are the number of PS channels to be made available at the subscribers’ end.”</i></p>	<p>1. With the completion of digitization process, there is no distinction between DAS and non-DAS area. Further, it is noted while it is necessary to restrict capacity of PS channels carried by DPOs as recommended by TRAI, it is not in the interest of the evolving and dynamic market like Cable TV to restrict the number of PS channels. Regulation may only intervene to the point of upholding customer interests, ethical business practices, ease of doing business and safeguard against violation of programming code and advertisement code.</p> <p>2. Taking note of this, it is recommended that the MSOs may be permitted to operate to a maximum of 5%, and LCOs to a maximum of 1%, of the total permitted satellite channel being carried by them as permitted PS channels without any upper limit.</p>
<p>Recommendation No. 11: <i>“The Authority notes that all DPOs, other than MSOs and LCOs operating in non-DAS areas, are already security cleared. For these MSOs and LCOs, the Authority recommends that at any time before the MIB obtains the security clearance, it is determined that the programming service on PS and which has been registered on the online system is inimical to India’s national security or to the public interest, MIB may require the DPO to withdraw from distribution of the PS Channel or the programming service and /or cancel the registration.”</i></p>	<p>1. TRAI’s assumption that all the DPOs operating in DAS areas are security cleared is not correct since security clearance for LCOs is not a pre-requisite for grant of registration. Further, with the completion of digitization process there is no distinction between the DAS and non-DAS areas. At present about 72% MSOs are not security cleared by MHA as during their registration period security clearance was not a pre-requisite. Moreover, none of the LCOs are security cleared.</p> <p>2. Taking note of this, it is recommended to extend TRAI recommendation for security clearance of MSOs / LCOs in non-DAS areas, to all MSOs / LCOs who are not security cleared and wish to offer PS to their subscribers.</p> <p>3. That is to say, MIB will obtain security</p>

	clearance of all MSOs / LCOs, who wish to offer PS and were not MHA security cleared at the time of registration, while they run their PS. However, if at any time before the MIB obtains the security clearance, it is determined that the programming service offered on PS and which has been registered on the online system is inimical to India's national security or to the public interest, MIB may require the MSO / LCO to withdraw from distribution of the PS Channel or the programming service and/ or cancel the registration.
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2. It is requested that as per the provisions of Section 11(1) of TRAI Act, the Authority may after considering this reference, kindly furnish their recommendations on the suggested modifications to enable the Government to take a final decision in this matter.

Yours faithfully,



(Sanjeev Kumar)

Deputy Secretary to the govt. of India

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**N-45001/1/2020-DAS**  
Government of India  
Ministry of Information and Broadcasting  
ShastriBhawan, New Delhi-110001

Dated 23/10/2020

To

Shri Sunil K. Gupta  
Secretary  
Telecom Regulatory Authority of India  
Mahanagar Doorsanchar Bhawan,  
New Delhi

**Subject:** TRAI's Recommendations on "Platform Services offered by DTH Operators",  
Dated 13/11/2019, - regarding.

Sir,

I am directed to say while this Ministry is examining the TRAI's Recommendations on "Regulatory Framework for Platform Services" dated 19/11/2014, for their implementation in respect of MSOs / LCOs, it is observed that some of the recommendations made by TRAI on 13/11/2019 regarding Platform Services offered by DTH operators could be adopted in respect of MSOs / LCOs as well to have uniformity of guidelines in both segments. Therefore, it is proposed to adopt the under-mentioned recommendations in respect of Platform Services offered by MSOs / LCOs also by appropriately replacing the word "DTH" with "MSO/LCO" wherever required :

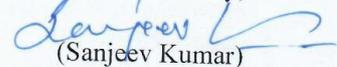
Recommendation Number	Recommendation of TRAI dated 13/11/2019 on " Platform Services offered by DTH Operators "
3.1	"Platform services (PS) are programs transmitted by Distribution Platform Operators (DPOs) exclusively to their own subscribers and does not include Doordarshan channels and registered TV channels. PS shall not include foreign TV channels that are not registered in India. Registered TV channels or television channels means a channel, which has been granted downlinking permission by the Central Government under the policy guidelines issued or amended by it from time to time and reference to the term "channel" shall be constructed as a reference to "television channel". framed thereunder."
3.2	"The Authority recommends that:  (a) The programme transmitted by the DTH operator as a platform service shall be



	<p>exclusive and the same shall not be permitted to be shared directly or indirectly with any other Distribution Platform Operator (DPO).</p> <p>(b) Programme transmitted by the DTH operator as a platform service shall not directly or indirectly include any registered TV channel or Doordarshan channel or foreign TV channel. Time-shift feed of registered TV channels (such as +1 services) shall not be allowed as a platform service.</p> <p>(c) DTH operator shall ensure and provide an undertaking to the Ministry in the format prescribed by the Ministry that the programme transmitted is exclusive to their platform and not shared directly or indirectly with any other DPO.</p> <p>(d) In case the same programme is found available on the PS of any other DPO, MIB/TRAI* may issue direction to immediately stop the transmission of such programme. MIB also reserves the right for cancellation of registration of such PS of the DTH operator."</p> <p>(*MIB had made a back reference that powers may rest with MIB)</p>
3.5	"The Authority recommends that the DTH operators shall provide an option of activation/deactivation of platform services as prescribed in the orders/directions/regulations issued by TRAI from time-to-time."
3.6	<p>"The Authority recommends that:</p> <p>(a) The platform services channels shall be categorised under the genre 'Platform Services' in the Electronic Programmable Guide (EPG) subject to orders/directions/regulations issued by TRAI from time to-time.</p> <p>(b) The respective maximum retail price (MRP) of the platform service shall be displayed in the EPG against each platform service subject to orders/directions/regulations issued by TRAI from time-to-time.</p> <p>(c) A provision for putting a caption as 'Platform Services' may be required to distinguish the platform services from the linear channels. Government may decide the caption in a size which is visually readable by the consumers."</p>

2. It is requested to convey your views on the above proposal at the earliest.

Yours faithfully,

  
(Sanjeev Kumar)

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