

Consultation Paper No. 8/2007

Response to TRAI Consultation Paper

On

Headend-In-The-Sky (HITS)



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Response to the Consultation Paper No 08/2007

Consultation Paper on Headend in the Sky

Dish TV India welcomes the initiative by TRAI for issuing a Consultation Paper on “Headend in the Sky”.

Dish TV India Ltd (formally known as ASC Enterprises Ltd) had conceived HITS concept in 2003 as an economically viable mechanism where the digitalization of the cable could be rolled out at a fast pace with full transparency to the value chain elements which are Broadcasters, MSO’s/Cable Operators and the Subscribers. Accordingly it had applied and got the licensing approvals from Ministry of Information and Broadcasting to set up a HITS platform which has been referred to in the Consultation Paper itself.

As per the recommendations of the sub-committee of digitalization set up by TRAI on voluntary CAS, a time frame of three years has been envisaged for the rollout of digital /CAS services in 55 cities with effect from June 2008 to 31st March 2011. Prior to that CAS/Digital services which at present are confined to specified areas of three Metros, are expected to be extended to the remaining parts of the Delhi, Mumbai and Kolkatta in near future.

To achieve this objective in the envisaged time frame, it is important that the cost of the roll out of digitalization is kept at an economical level and cost effective mode of roll out of the digital services be adopted for faster roll out. HITS is best suited mechanism to achieve this objective.

It is in the interest of the consumers that the standards of Conditional Access, SMS, CRM & Billing are maintained which will have long lasting impact on the quality of service being provided to the consumers. Headend in the Sky will be most viable and

practical way to implement the process of digitalization which is to cater to 60,000 cable operators across India.

Headend in the Sky offers unique advantages over the conventional implementation of the digital delivery of signals on cable using local Headends such as:

1. Very low cost implementation at the MSO/ Cable Operator Headend.
2. Single SMS thus reducing the cost and eliminating the need to monitor multiple SMS's across the country.
3. The single CAS will offer complete freedom to consumer to move around with a box across the country without going through the process of returning the box and taking a new box from his local service provider.
4. It saves cost of implementing Digital Headends at various locations.
5. The threat that the low end encryption systems and boxes may be used at the time of rolling out digital cable in conventional mode may compromise the security and thus may even require a change of box or Viewing Card at the consumer end which will not only increase the cost for the operator but may also ultimately affect the consumers cost for Customer Premises Equipment.
6. With economies of scale, a single type of box at high volumes will bring the cost down which ultimately will be in the interest of the consumers.
7. The authority has enumerated the benefits to the various stakeholders in the Paras 2.20, Para 2.21 & Para 2.22 in the Consultation Paper with which we entirely agree to .

The disadvantages mentioned in Para 2.23 of the Consultation Paper are mere apprehensions which considering the prevalent ground situations and the structure of the cable industry are unlikely to happen and thus should not be construed as discounting the benefits or the advantages of the system in any manner. Since the HITS platform will be a commercial venture which will be akin to a departmental store, would be providing shelf space to all products (read channels) to optimum levels to be acceptable in all the region. Hence an apprehension that the HITS platform operator may become a dominating agency is unfounded and without any basis.

Uplink facilities world wide are built with enough safeguards and redundancies in the system and the failure rates are unknown. Each process element has hot redundancies and proper safeguards in place to protect the services and interests of the consumers

Questions for Consultations

4.53.1 What should be the scope of the HITS operations? Whether the scope of the HITS operator should include both the models as stated under heading “scope of HITS operation” in paras 4.5 and 4.6?

Response

As HITS operator will be putting a considerable infrastructure, technology, hence keeping in view the benefit of singularity of the CAS, Middleware functions like EPG, SMS.

This singularity of the end to end solution from the HITS operator will be able to deliver the desired quality of the service to the consumer. Singularity of the CA, EPG and SMS has huge impact on the CRM software and thus help in providing a fast and reliable service to the consumer.

HITS operator providing the single window solution will enable the viewers to enjoy the full benefit of the services like gaming, interactive content and magazines and this is possible if a singular type of the STB is used and that is possible if the HITS operator is giving complete service to the subscriber.

In our opinion to provide an end-to-end seamless, QoS it is important that the HITS operator also is responsible for the service it delivers.

However Model 2 suggested by the authority also has a lot of advantages in as much as it offers an infrastructure facility to multiple intended users (MSO/Cable Operators) to roll out the digital services without incurring huge investments in Headend Infrastructure, CAS, SMS and Middleware. The simulcrypt facility available with the HITS infrastructure provider would enable the multi system operators to share the satellite capacity as well thus bringing down the recurring transponder costs. Similarly common SMS and Middleware would also be available as a shared resource thus bringing down both capital as well as recurring expenditure. All these would ultimately result in providing quality digital services to the consumers at affordable rates. In addition it is also pertinent to point that a passive HITS operator (infrastructure provider) may at any time become active by sourcing the content and tying up with LCO for provision of digital services.

Accordingly we are of the view that the policy guidelines for HITS should also provide for and include within its ambit both the types of HITS operators i.e Model 1 and Model 2 both are required to be incorporated in the HITS policy

4.53.2 Whether HITS operations should be allowed in C-Band or in Ku band or in both?

Response

Dish TV will like to request the Authority to consider the fact that the Ku band frequencies are severely affected by the rain, snow, hail, storms and atmospheric moisture.

Since the Ku band beams on the satellites are intended to cover the landmasses and are converged to have maximum reach in these areas, hence there is a distinct possibility that the far flung area like Andaman islands falling out of the beam coverage and likely to be left out. It will be unfair to the subscriber of these areas to be left out from the benefits of the digitalization,

As the Consultation Paper has mentioned that the original license was granted by Ministry of Information and Broadcasting to M/s ASC Enterprises Limited in C-Band, which was a very well considered and thoughtful decision.

The Authority in the Consultation Paper has mentioned that the need to keep HITS on C-Band emerged from the following facts :

1. In Ku Band due to technological limitation of rain fed attenuation which can disrupt services to a large subscriber base number.
2. Since there is a specific guideline and eligibility conditions of DTH , it was thus envisaged that HITS should not be used as a vehicle for a back-door entry bypassing the licensing norms for a DTH service provider.
3. In DTH there is a revenue share with the licensor on the gross revenue of the DTH operator. By adding HITS on the Ku Band there could exist a possibility that the revenue share on the DTH services does not remain to be transparent and will create another area of conflict.
4. In the CAS scenario there is regulatory intervention on the end pricing to the consumers which does not apply to DTH. In case of single band usage

the need will be that pricing on both the services are brought at par which is not the ultimate intention of this Consultation Process.

Dish TV India Limited is of the firm view that HITS should be allowed only in C-Band and Ku band be allowed only for DTH services.

4.53.3 Whether a HITS operator should be restricted to offer services only to the cable operator? Alternatively, should HITS operator be allowed to serve the end customer also directly? If yes, then whether the restriction on DTH to service end customer only needs any review?

Response

Dish TV is of the opinion that HITS operator should be allowed to serve the end consumer as it is nothing else but MSO service. It may be noted that there is no bar on MSO to service the consumer directly. In view of the fact that HITS is in C band there is no conflict either with the DTH and as such there should not be any objection if the HITS Service provider reaches the subscriber.

4.53.4 What should be the limit of Foreign Direct Investment (FDI) for HITS licenses? Should there be any restriction on the maximum limit on the composite figure of FDI and FII ?

Response

Since the HITS operator is going to be having a great impact on delivery of the content to the subscriber via cable operator, our policy makers have been very very foresighted in keeping the FDI up to 49 % which is applicable in the case of Cable Networks, Teleports and DTH.

It is worth noting that no cable company has ever reached a level of foreign investment of more than 30 %. Accordingly there is no reason and justification to ask for investment limits to be raised.

We are of the view that a major investment goes in the network on the ground and the CPE. Since the network is already laid and there is CPE which is going to be required for a normal digitalization process thus we see no need not increase FDI limits beyond 49% for the HITS operators

The in flow of foreign investments is not related to FDI caps but to the nature of the industry i.e whether the industry is properly organized or fragmented , the revenue share are justified, simpler, straightforward and transparent. The ARPU's are high and the price is deregulated. Authority needs to consider that present nature of the industry does not reflect these tenements of the business and thus the investors tend shy away from the market.

Thus we feel that the existing limits of the FDI and FII as specified in the DTH licensing conditions should be stipulated for the HITS operator as well.

This will also prevent any vertical monopoly and will also address the concern of Authority that the HITS operator may not become the dominant force

4.53.5 What should be the entry fee and the annual license fee for HITS?

Response

HITS operator will have a huge responsibility in terms of the delivery of the Services to the consumers via MSO/Cable operator and with a view that the serious players who have the means to install and maintain such infrastructure, should be allowed to enter the sector. Therefore we are of the view that and Entry

fee to be specified in case of a HITS operator starting operations from 1st April 2006 be Rs.10 crores and there should be no annual license fee.

The rationale of the no annual licensee fee is that the ultimate objective is to provide the services at the minimal cost to the consumer and the burden of license fee will ultimately be transferred to the consumer. Moreover by the reasoning of parity and level playing field since HITS services are nothing else but MSO services, there is no justification of levy of any annual license fee/revenue share.

4.53.6 Whether HITS operator should be allowed to uplink from outside India also?

Response

- 1 The stipulation of having uplinking facilities from India in the case of DTH was done keeping in view the sensitivities of the media sector It is also important to note here that uplinking from India provides distinct advantage. Today India is competitive and cost effective. Over the last two years we have seen phenomenal growth in teleports infrastructure in our country, It should be our endeavor to give this sector a boost, else the companies would continue to prefer uplinking from abroad to take the advantage of the loop sided tax regulations
- 2 In case of uplinking from India the monitoring facilities are available
- 3 Since the CAS will have be located in India and the process of taking the CAS commands to the HITS uplink centre is quite cumbersome which would risk the very vital process from point of encryption of content and the SMS integration with the CAS.

Any breakdown in this will result in either delivery of content in free to air mode or non availability of the channel to the consumers, which will be against the QOS norms

- 4 What happens to the downlinking policy in such cases because now it will not be the broadcaster's service which have been granted downlinking permission. Now this will be a HITS operator's service constituting a single beam which will consist of a bundle of channels which may or may not have downlinking permission . Hence it will be appropriate if the HITS operator uplinks from Indian soil only so to facilitate monitoring adherence to the downlinking policy and compliance with the regulatory requirements
- 5 Today the growing trend is to transport the channels via fibre to a teleport out of the country and then beam back into the country without the need of the downlinking permission. This mechanism is required to be closely monitored so that unwarranted channels are not downlinked under garb of HITS.
- 6 There is a possibility that the content which is beamed via HITS from an uplink centre abroad has been altered and to continuously monitor this will be a herculean task

We are of the view that the uplink of HITS should be allowed only from India.

4.53.7 If yes, what are the safeguards needed for monitoring the system? What are the checks and balances required to be put in place to address the level playing field issue with the operators uplinking from India ?

Response

Dish TV is of the view the uplink should be done from India and has given elaborate reasoning in response to Point No 4.53.6

4.53.8 Should any interconnection issues to be addressed in licensing conditions?

Response

Since the HITS is being used as an effective tool to accelerate the role of digitalization hence all the interconnect related points and the tariff supports as in the CAS regime should be available to HITS also.

4.53.9 Should spectrum charges be recommended to be done away with for HITS service provider?

Response

The Authority has earlier also recommended in its Consultation paper dated 29th April 2004 that the recommendation to accelerate the growth of industry the spectrum royalty should be exempted and HITS will also fall under the same category. Therefore the spectrum fee should be exempted.

4.53.10 Should there be any cross holding restriction? If yes, please suggest the nature and quantum of restrictions.

Response

It is essential that a HITS operator works with total transparency and impartiality. Accordingly no broadcaster should own more than 20% of the equity in the HITS company..

4.53.11 Should HITS operator be allowed to offer value added services?

Response

The HITS operator should be allowed to provide services like EPG, Interactive TV as these are now becoming basic box features and thus should be available to all subscribers. This will allow a level playing field for DTH and HITS subscriber and thus will create an healthy competitive alternative for the consumers.

In case there is a need of a service provider providing services like internet then it should take relevant licenses under the prevailing licenses from the competent authority. Any video service based on DVB should be permitted.

4.53.12 Whether “ must carry/must provide” conditions be imposed on HITS operation?

Response

Since HITS is based on the transponders from the satellite thus the minimum channels an operator should provide for is all the pay channels and appropriate regulatory mechanism is required to be put in place so as to ensure that HITS operator is able to procure the content on non discriminatory basis

In HITS it is envisaged that the analogue channel will be locally inserted hence the HITS provider need not be under must carry obligations.

It will be appreciated that since there are regional linguistic channels which may not be viewed or acquired in all geographical and demographical areas thus carrying the same on the HITS platform will be blocking the scarce resources like

transponders, and spectrum. Hence we are of the view that there should be no must carry on the HITS platform.

4.53.13 Whether a stipulated net worth of specified amount be made as an eligibility criteria to avoid any non-serious applicant?

Response

As mentioned in our response to the entry fee stipulations, only serious players which intend to commit required investment for the HITS services will be inclined to get the HITS license, thus necessitating the levy of entry fee of Rs 10 crores, there is no further need to stipulate any other eligibility criteria such as net worth etc to avoid confusion

Revenue Share

In addition to the above vide Para 4.36 and Para 4.37 of the consultation paper, an issue has been raised as to whether the existing revenue share model made applicable to CAS areas be extended to HITS also. Another issue in this regard is whether the inter se share between MSO and HITS operator be also stipulated or be left for mutual negotiations.

In this context it may be mentioned that not only the existing revenue share mechanism in the CAS areas be extended to HITS platforms but the same should also be reworked and improved so as to include the share of HITS service provider from the revenue stream because of higher expenditure involved in hiring the satellite transponders also. This will provide the necessary incentive for HITS operator to provide the economical viable digital services

On the revenue share between the HITS and the MSO it should be left between MSO & the HITS platform operator to decide among themselves the revenue share between them.
