

**Response of Dish TV India Limited
to the
Consultation Paper
on
Ease of Doing Business
in
Broadcasting Sector
*Consultation Paper No. 8/2017***

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Response of Dish TV India Limited to the Pre-consultation Paper on Ease of Doing Business in Broadcasting Sector:

We welcome the Consultation Paper on the Ease of doing Business in the Broadcast Sector, as there are a number of serious issues which are bogging down the growth of the sector and an intervention at Administrative and regulatory levels is critical if the Sector is to continue to sustain its growth. At the outset, we would like to offer our introductory comments. We had also responded to the pre-consultation on the subject and we believe that the regulatory situation has worsened significantly since May 2017 resulting in our expanding our comments on the Consultation paper.

Introductory Comments:

As the Authority is aware, there are too many hindrances which are resulted due to uncoordinated actions by different Ministries and Departments involved in granting Licenses and permissions to commence and continuance of providing Broadcasting and Cable/ Satellite distribution services. These include amongst others:

(i) **Department of Space (DoS)**, which allocates Bandwidth on Indian Satellites, grants permissions to use foreign satellites in C-band, leases capacity in Ku-Band on foreign satellites and leases it back to DTH, VSAT and DSNG operators. This is done as per their own set procedure under Space Policy of 2001 (Not amended since then). The Department of Space acts, for the space capacity both as a regulator and licensor (in grant of capacity) and its policies on pricing are totally non-transparent and inconsistent with national interest.

As an example, for the last 5 years the revision of prices for the Space segment offered by ISRO for TV, VSATs and DTH was kept pending and contracts were renewed with clauses such as acceptances of charges from back dates. However now the DoS has revised prices since 1 April 2016 on INSAT/GSAT, with an increase of 20% but has left the past periods unchanged, which is illogical as the USD to INR rate was highest in 2015-18 reaching Rs 68 to the USD whereas now it is 63-64. This has resulted huge

gains to unspecified entities.

(ii) Wireless Planning Wing (WPC)

The WPC issues wireless licenses for the satellite bandwidths allocated by the DoS, ISRO and endorses capacities for use on foreign satellites which have been leased directly by Indian broadcasters. The WPC is responsible for formulating policies for use of various frequency bands such as Ku Band, Planned Ku-Bands over India, Ka-Band and the use of Ku/ Ka band spot beam satellites.

For the last over 15 years, there has been no innovation on the use of space resources such as the Ka-Band, Sport beams for data, broadcast or DTH distribution resulting in all resources remaining unutilized and the benefits which could have resulted from such use have been extinguished for all times in the past.

(iii) Department of Telecom (DoT)

The DoT is responsible for policies and rules for the Telecom sector, which includes all OTT services and Mobile services. The WPC also functions under the WPC but in a semi-autonomous manner.

The OTT services which the DoT licenses are a critical part of the Broadcasting sector now with increasing delivery of broadcast content over OTT, and the likelihood that over 50% of all media consumption may move to OTT in the next 5 years.

However there is no coordination between the Ministry of Information and Broadcasting and DoT on how a conducive atmosphere for the use of OTT can be created. While on the one hand, we have the Tariff orders for the Linear TV content, there are no such rules for Linear OTT TV. Both Linear TV and Linear OTT TV are delivered via STBs or similar devices and the viewers see these identically, but the difference in regulatory approach is unacceptable.

It is also to be placed on record that that the Wireless Planning & Coordination (WPC) Wing, Department of Telecommunications has not carried out any "endorsement" of

the spectrum for the broadcasting of the TV channels since February 2017. It is now more than six months and the applications are pending for the authorization of the Spectrum, authorization of Teleports and many other matters. WPC has chosen to interpret the spectrum allocation issue which relates to terrestrial use spectrum wherein one user excludes others and gets certain rights from the Govt. of India. However, in the extant case of satellite usage, no such right is granted and all spectrum that is used has been coordinated by ISRO and/or foreign operators via the ITU of which India is a member. The non-endorsement of capacities after DoS approval is placing India in an anomalous position where business cannot be conducted even as per internationally approved agreements. We are also elaborating this point in our response below.

(iv) The Ministry of Information and Broadcasting (MIB)

The ministry of Information and broadcasting is responsible for the grant of licenses for all Broadcast (TV) and DTH related services. It functions under its own guidelines and processes and does not have any coordination with other ministries such as the DoT, WPC and the DoS which grant resources to make the very broadcasting services which they are licensing possible to be commenced.

As an example, a TV uplink license is granted only after the lease of satellite bandwidth is signed with either INSAT (No capacity in C-Band has been available for the past 5 years on popular satellites), or with a foreign satellite operator.

However after the Ministry grants permission, the WPC refuses to endorse the same bandwidths leased. However the Broadcasters have to make payments for the leased capacity from Day1 of lease, irrespective of the fact that the WPC has stopped endorsing the same for the better part of the year.

(v) Prasar Bharti and DD-Direct

Prasar Bharti and DD-Direct are treated as Government entities in the broadcast sector. DD-Direct (Now called as DD-Freedish) has swayed from its path of providing Public Service channels of Doordarshan to large population bases in vast hinterlands of India and instead launched a fully commercial DTH service. However it is still treated

as a Government entity in regard to allocation of resources. It vitiates competition by giving channels free of charge at public expense and is not in conformity with regulations in the sector. Our details comments are in the paper.

It is not incorrect to say that even before Digitization, the growth of the media sector which happened both via DTH and Cable has led to a growth of social revolution and change in India and there has been immense increase in national wealth as a result. However now by their uncoordinated actions, the very foundations of the media sector are being systematically destroyed as further detailed in our response below.

Before closing our introductory comments, we would like to say that we had brought some of these points out in the pre-consultation paper, and to reaffirm the view expressed by the Authority that a favorable business environment is a pre-requisite for any country to be a favorite business destination which not only leads to employment generation but also helps in the growth and development of an economy.

Issues for Consultation

Q1. Is there a need for simplification of policy framework to boost growth of satellite TV industry? If yes, what changes do you suggest in present policy framework relating to satellite TV channels and why? Give your comments with justification?

We believe that there is urgent need to revisit the entire process of satellite TV Industry due to the multiplicity of agencies involved in granting licenses, permissions and wireless licenses. There should be a single workflow of licensing procedures which should happen online without any need for personal visits and requests before authorities on a case by case basis.

As we had explained briefly in our introductory comments, the concerned Ministries and Departments are operating without any coordination of any kind.

To further elaborate this point, while the MIB approves uplink based on certain foreign satellites, which are preapproved by ISRO, the WPC has been refusing to endorse the same.

We would further like to submit that there is no proper justification for stopping spectrum endorsement for satellites due to the following facts:

a) All satellites, Indian and Foreign are coordinated with the ITU including the frequency spectrum to be used over India. When India gives coordination consent for a satellite and it is approved by the ITU, the satellite has an indefeasible right for using the same.

b) The Satellite usage from an earth station is a point to point uplink to a specific orbital location (say 78.5E for Intelsat -20) and constitutes a "vertical use" of the spectrum. There is no limitation for any other satellite earth station to use the same frequency for uplink to any other orbital location, including nearby locations in the orbit e.g. 81E, 83E and so on.

c) The ITU gives a satellite a coordinated status only after it satisfies all user administrations that the downlinks will not cause undue interference to any other coordinated satellite.

d) The Broadcasters are submitting all applications for WPC endorsement, merely as a procedure because such allocations already have the consent of the Dept. of Space, ISRO and also the Ministry of Information and Broadcasting.

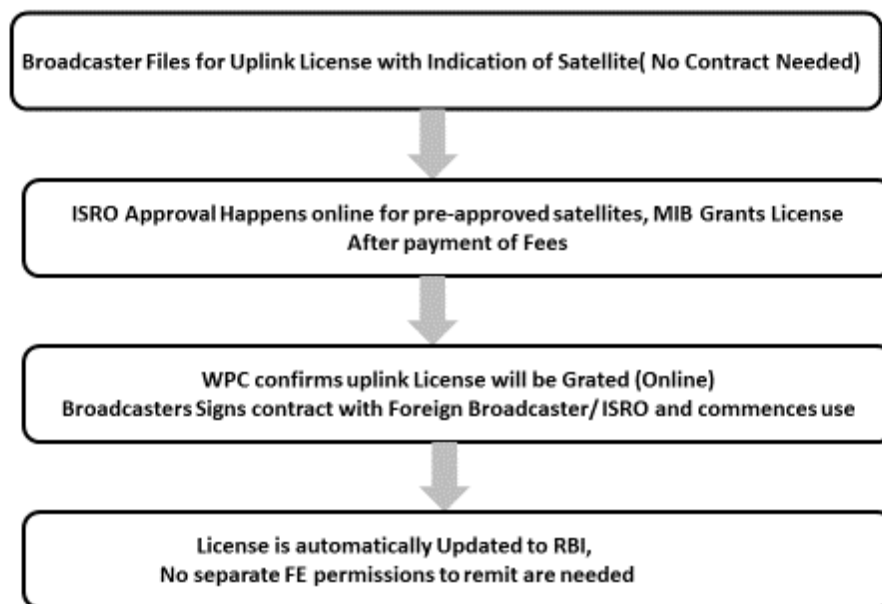
e) The Satellite Transponders belonging to various foreign satellites which are being permitted by the DoS can never be auctioned. There is not a single case anywhere in the world, where the transponders of a coordinated ITU satellite were auctioned. Hence there is no other way these transponders will ever be used, now or in future. Hence just unilaterally stopping the endorsement of transponders after approval of use by the MIB and the DoS creates a complete obstruction for the conduct of business.

f) The non-endorsement of contracted transponders is a violation of freedom of Press, Media and Radio, which is guaranteed under the constitution. In the absence of endorsement of satellite capacity, the broadcasters who plan to launch channels, radio stations, and satellite based news delivery are denied opportunity to launch such a channel and convey their points of view via broadcast medium. This violates Articles 14 and 19 of the constitution where only the older established broadcasters can

transmit the channels (already endorsed) but no new channels can be launched where a satellite endorsement is essential. It is now more than 7 months that the freedom of Media has been muzzled.

g) While in the spirit of Make in India and Ease of Doing Business, the Hon. Prime Minister has encouraged the Dept. of Space to launch new satellites at huge cost, the transponders on these satellites where allocated to private users will remain unusable. The Dept. of Telecom and the WPC by their actions are nullifying the growth of media and its multiplier effect on the Indian economy with millions of jobs at stake merely by misinterpreting the Satellite spectrum.

We suggest the following workflow happening via an online process:



The Figure above provides the suggested process which should happen online. The broadcasters should need to commence payments to satellite operators only when uplink contract is signed simultaneously with up-linking, saving several months to a year of infructuous payments, which are solely due to our inefficiency and inconsistency in processing applications.

As the TRAI may be aware, the permission to grant FE is processed year by calendar

year irrespective of satellite contract, and for the first 3-6 months no payments are made to foreign operators in the absence of permission. These result in higher charges for satellite capacity which are offered by satellite providers to Indian broadcasters as compared to foreign broadcasters.

Q2. Is there a need in present policy framework relating to seeking permission for making changes in the name, logo, language, format, etc. related to an operational satellite TV channel? If so, what changes do you suggest and why? Give your comments with justification?

We suggest that such changes should be made by broadcasters without seeking permissions, and a compliance report in specified form should be submitted online in regard to the changes made in Logo, language and format. Only name change should require a different form with more details, but should be online along with all documentation such as Trademark registration.

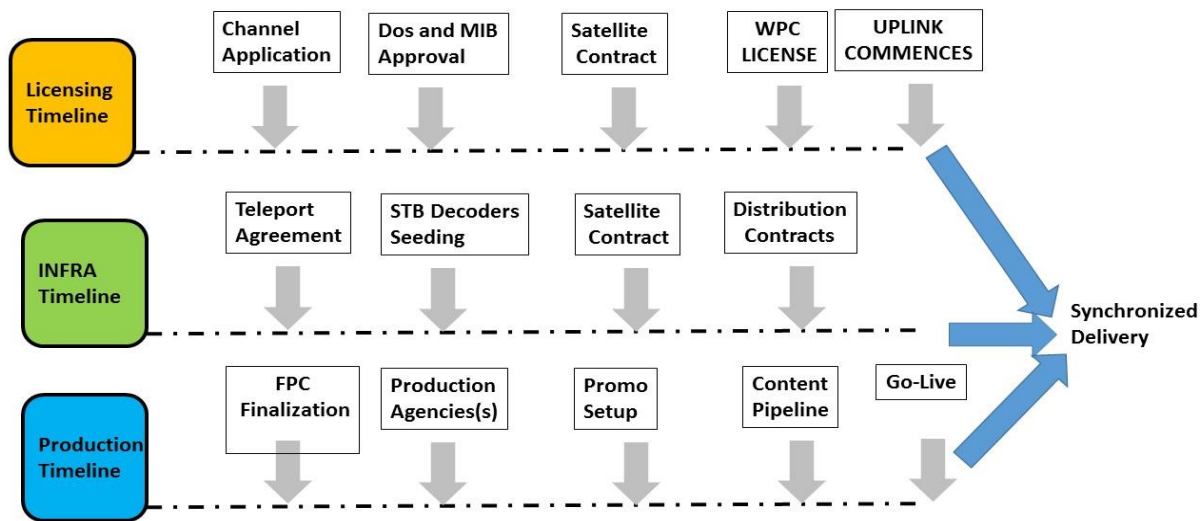
Q3. Do you agree with some of the stakeholders comment at pre-consultation stage that Annual Renewal process of TV channels needs simplification? Give your comments with justification?

Yes, we agree with the comments. We suggest that there should be an online reporting form which should enable broadcasters to file any changes such as channel properties, ownership (provided within limits), Directors and other license conditions compliance and the broadcasters should certify whether they are in compliance with the license conditions as issued.

Q4. Do you agree with stakeholders' comments that coordination with multiple agencies/ Government departments related to starting and operating of a TV channel can be simplified? If so, what should be the mechanism and framework for such single window system? Give your comments with justification?

Please see in response in Answer to Q1. We have proposed a single Window system, with the desired target that the licenses should be issued expeditiously, within

specified timeframes and the broadcaster should be able to synchronize their content related expenses with the targeted launch date, and the licensing process.



Q5. Is present framework of seeking permission for temporary uplinking of live coverage of events of national importance including sports events is complicated and restrictive? If yes, what changes do you suggest and why? Give your suggestions with justification.

Yes, the process is very restrictive. It common to get permissions only on the last day with a number of persons positioned at MIB, WPC and DoT to do the spadework needed in case to case clearances as the Govt is well aware.

This should be online, and within 72 hours. If not declined for 72 hours, permissions should be deemed to have been granted. Paperwork can be done later as well if needed.

Q6. Do you feel the need to simplify policy framework for seeking permission/license for starting and running of following services–

(iii) Teleport services

(iv) DTH service

If yes, what changes do you suggest so that process of grant of permission/license can be simplified and expedited? Give your comments with justification.

(a) Creation of Level playing field – to enable the DTH operators to undertake the

business efficiently: We state that parity and uniformity in any industry is the precondition for an enabling and conducive business environment and in the broadcasting industry such uniformity and parity cannot be achieved unless the discrimination being meted out to DTH platform through Regulation and Government conditions are not considered. We reiterate that until uniformity in the business opportunity is provided, any and all attempts for uniformity in the nature of services would continue to be discriminatory for the DTH operators. As stated repeatedly in various responses and representation, the imposition of License Fee – exclusively on DTH platform, was and continues to be discriminatory on the DTH platform. Such discrimination is not being corrected despite repeated representations. It is an undisputed fact that the present regime for the license fee is discriminatory against the DTH Operators and is designed to provide the leveraged position to Cable Operator, HITS, IPTV, and MSO etc. in the market place as they are not required to pay any annual license fee. On account of such additional burden the DTH subscriber is discriminated who has to bear higher burden, compared to cable/HITS subscriber. The DTH industry has been raising this issue from the time the industry has come into being. It is a matter of record that in the month of March 2008, the Ministry of Information and Broadcasting had taken a decision to fix the License Fee @ 6% of the Gross Revenue which decision had the concurrence of the TRAI also. However, for reasons best known to the Government, the said decision is yet to be put into effect. The TRAI and the Ministry of Information & Broadcasting is well aware that the DTH has played a very critical role in making the Digitization dream a success in addition to providing a world class experience to the consumers. Despite this, the DTH industry has always been accorded a step motherly treatment. There is an urgent need to remove these anomalies and create a level playing field for the DTH operator and thus paving the way for a conducive business environment. Dish TV seeks the support of the TRAI in rationalization of the License Fee so that even the DTH may be granted a level playing field which has all along been given step motherly treatment by the Government and the TRAI.

Regarding license fee it may be noted that on 01.10.2004, the TRAI while issuing its

recommendations on 'Issues relating to Broadcasting and Distribution of TV channels' where it recommended reduction in license fee to 8% of Adjusted Gross Revenue (AGR) also recommended that the amount paid by the DTH operators to the broadcasters towards content should be deducted for the purpose of calculation of license fee. The relevant extract of the said TRAI Recommendation is extracted hereunder:

“The principle of application of license fee on Adjusted Gross Revenue (AGR) as in the case of telecom may also be followed. The AGR in case of DTH service should mean total revenue as reflected in the audited accounts from the operation of DTH as reduced by

- (i) Subscription fee charges passed on to the pay channel broadcasters;***
- (ii) Sale of hardware including Integrated Receiver Decoder required for connectivity at the consumer premise;***
- (iii) Service/Entertainment tax actually paid to the Central/State Government, if gross revenue had included them.”***

However in a complete departure from the abovementioned view, TRAI, on its recommendation dated 23.07.2014 recommended that the license fee should be calculated @8% of AGR where AGR is to be calculated by excluding only Entertainment Tax, Service Tax & VAT. This was done when the Government did not seek the recommendation of the TRAI on the quantum of License Fee to be paid by the DTH operators and when there was huge opposition by the DTH industry. The role of TRAI towards the DTH industry is therefore not very supportive.

The already created a large gap between the revenue generation capacities of the MSOs vis- à-vis the DTH operators, has also caused further prejudice to the DTH operators considering the fact that the MSOs and DAS operators and also the HITS operator are not required to pay any Entry Fee, Bank Guarantee which are required to be paid by the DTH operators. Further, the tax liability on the DTH sector is highest in the industry. Clearly therefore there is no level playing field for the DTH operators and the DTH operators are competing with the operators who are much better placed. This is despite the DTH services brought transparency in the sector giving the much needed boost which was required by the sector to tackle the persisting problem of under

declaration by the cable operators.

In view of the above, it is requested that if the Authority is intended to create opportunities for ease of doing business in the DTH sector, it must act upon removing all such road blockers, as mentioned above so as to create opportunities for other players to invest more in this sector.

(b) Availability of Satellite / bandwidth to DTH: Satellite space is the most critical resource for a DTH platform, abundant availability of which is most critical for the DTH operator to be able to provide the entire gamut of channels as well as to be able to compete effectively with the Cable. It is a matter of record that the DTH industry has been facing heavy scarcity of satellite capacity along with the duration of the existence of the DTH industry. While the DTH was introduced in India as an alternative to the cable however, shortage of satellite capacity, among other reason, has been a hindrance towards the proper growth of the DTH platform.

Further, despite their being no provision in the DTH or WPC license issued to the DTH operators, the DTH operators are prohibited to directly engage and negotiate with the satellite operators for availing capacity for the DTH Services. As per the procedure, the Antrix Corporation Limited is the body which directly negotiates with the Satellite operators and provides the satellite capacity to the DTH operators. However, without any plausible reasons, the DTH operators are not allowed to participate in such negotiation with the satellite operators and the DTH operators are forced to pay such amount as may be negotiated and finalized by Antrix. Under these circumstances, the DTH operators have not had the opportunity to use their commercial expertise to negotiate a lower rate for the satellite capacity.

(c) Charges and Duties

In addition to the above, the DTH operators are required to pay Service charge to Antrix which is on the extremely higher side. Effectively, the DTH operators are forced to pay Service Charge for such activity which can be undertaken by the DTH operators directly and in more efficient way.

In view of the above, it is stated that there is an imperative need to streamline

the manner in which the satellite capacity can be availed by DTH operators.

Q7. As per your understanding, why open sky policy for Ku band has not been adopted when it is permitted for 'C' band? What changes do you suggest to simplify hiring of Ku band transponders for provision of DTH/HITS services? Give your comments with justification.

We do not see any justification as to why open sky policy for Ku-Band is not adopted when it is adopted for C-Band. The only differentiating factor between the two is the size of the receiving antennas. However with high power satellites, even C-band services can be received with relatively small dishes.

At present Ku-band is permitted for HITS, DTH, Uplinks and DSNGs/VSATs. These applications should be enabled for open sky policy which will allow the broadcasters/DTH operators to:

(i) Negotiate long term contracts (At present ISRO executes only 3 year contracts). As satellite life is 15-17 years, operators give benefit in long term contracts to the extent of 50%.

Hence if a DTH operator has a 20 year License, they should be able to contact satellites for 15-17 years.

(ii) Create suitable uplink and Disaster recovery Infrastructure with satellite capacity being known factor

(iii) Book back up satellites to de-risk businesses

Q8. What are the operational issues and bottlenecks in the current policy framework related to –

(iii) Teleport services

(iv) DTH service

How these issues can be simplified and expedited? Give your comments with justification.

Kindly see our comments above, in essence we are asking for an online, time-bound and transparent process. The process should be flexible in terms of future changes directed by technology, should allow change of uplinks such as from DVB-S to DVB-S2 or other standards more suitable, say for 4K or 8 K and move ahead with the technology

without getting embroiled with licensing processes which have not changed for the last 15 years.

Also, as stated hereinbefore, we reiterate that the License and other conditions for DTH operations should be amended and made as per with other similarly situated operators in order to create level playing field. Further, the Open Sky policy should be made applicable Ku Band as in the case of C-band and necessary amendment should be made in the DTH License condition.

Q12. Is there a need to streamline the process of assignment of frequency by WPC and clearances from NOCC to enhance ease of doing business? What changes do you suggest and why? Q13. What are the reasons for delay for allocation of frequencies by WPC? What changes do you suggest to streamline the process? Give your comments with justification.

As explained in our introductory comments the entire process of endorsement of frequencies by the WPC is in a disarray in so far as broadcasting services using satellites is concerned. The WPC and the DoT by not distinguishing between the Terrestrial and the Satellite Spectrum have brought the endorsement process to a complete halt in India.

Wireless Planning & Coordination (WPC) Wing, Department of Telecommunications has not carried out any "endorsement" of the spectrum for the broadcasting of the TV channels since February 2017. It is now more than six months and the applications are pending for the authorization of the Spectrum, authorization of Teleports and many other matters.

Broadcasters by virtue of having signed certain contracts, our members are incurring expenses towards the satellite capacities, inability to use teleports and launch new channels and satellite capacities lying vacant. Their content creation and channel content delivery pipelines though functional are forced to remain unutilized and incur huge expenses.

WPC has chosen to interpret the spectrum allocation issue which relates to terrestrial use spectrum wherein one user excludes others and gets certain rights from the Govt.

of India. However, in the extant case of satellite usage, no such right is granted and all spectrum that is used has been coordinated by ISRO and/or foreign operators via the ITU of which India is a member. The non-endorsement of capacities after DoS approval is placing India in an anomalous position where business cannot be conducted even as per internationally approved agreements.

We would further like to submit that there is no proper justification for stopping spectrum endorsement for satellites due to the following facts:

- a) All satellites, Indian and Foreign are coordinated with the ITU including the frequency spectrum to be used over India. When India gives coordination consent for a satellite and it is approved by the ITU, the satellite has an indefeasible right for using the same.
- b) The Satellite usage from an earth station is a point to point uplink to a specific orbital location (say 78.5E for Intelsat -20) and constitutes a "vertical use" of the spectrum. There is no limitation for any other satellite earth station to use the same frequency for uplink to any other orbital location, including nearby locations in the orbit e.g. 81E, 83E and so on.
- c) The ITU gives a satellite a coordinated status only after it satisfies all user administrations that the downlinks will not cause undue interference to any other coordinated satellite.
- d) Broadcasters are submitting all applications for WPC endorsement, merely as a procedure because such allocations already have the consent of the Dept. of Space, ISRO and also the Ministry of Information and Broadcasting.
- e) The Satellite Transponders belonging to various foreign satellites which are being permitted by the DoS can never be auctioned. There is not a single case anywhere in the world, where the transponders of a coordinated ITU satellite were auctioned. Hence there is no other way these transponders will ever be used, now or in future. Hence just unilaterally stopping the endorsement of transponders after approval of use by the MIB and the DoS creates a complete obstruction for the conduct of business.

f) **The non-endorsement of contracted transponders is a violation of freedom of Press, Media and Radio, which is guaranteed under the constitution. In the absence of endorsement of satellite capacity, the broadcasters who plan to launch channels, radio stations, and satellite based news delivery are denied opportunity to launch such a channel and convey their points of view via broadcast medium.** This violates Articles 14 and 19 of the constitution where only the older established broadcasters can transmit the channels (already endorsed) but no new channels can be launched where a satellite endorsement is essential. It is now more than 7 months that the freedom of Media has been muzzled.

g) While in the spirit of Make in India and Ease of Doing Business, the Hon. Prime Minister has encouraged the Dept. of Space to launch new satellites at huge cost, the transponders on these satellites where allocated to private users will remain unusable. The Dept. of Telecom and the WPC by their actions are nullifying the growth of media and its multiplier effect on the Indian economy with millions of jobs at stake merely by misinterpreting the Satellite spectrum.

Q15. Is there any other issue which will be relevant to ease of doing business in broadcasting sector? Give your suggestions with justification.

1. Toll free charges: The requirement of establishment of a call center is a regulatory requirement imposed on the DTH sector by virtue of the Quality of Service regulation. While we understand that importance of establishment and maintenance of call center by a DTH operator, however the requirement of provision of toll free number is not well appreciated. Whereas in the case of telecom operators, the said services are provided by their own resources and except that no other industry has such a provision and provision of such services takes a lot of toll on the DTH operators. DTH business is already a costly affair. Moreover with discriminatory license conditions, huge taxation, the DTH sectors has already reeled under a huge losses. We therefore propose this requirement of provision of toll free number by the DTH operators should be done away with.

2. NOCC monitoring charges: As per the DTH guidelines, an applicant company has to pay the license fee and royalty for the spectrum used as prescribed by Wireless

Planning & Coordination Authority (WPC), under the Department of Telecommunications. In addition to the same, the applicant company has to pay monitoring charges to NOCC. It is stated that the object to having such provision is to monitor the transmissions of DTH operators by NOCC. It may however be stated that NOCC does the monitoring of the transmission done through only Indian satellites and it has no role where the transmissions are done through foreign satellites. As we all are aware, most of the DTH operators are using the services of the foreign satellite services providers, however despite the same, such operators are required to pay the monitoring charges to NOCC.

It may be pointed out that DTH business is a hugely cost incurring business and even before the commencement of the business operations, the applicant company has to shell out more than 100 crores towards entry fee, bank guarantee, establishment of head-end and call center facility etc. It is therefore clear that no non serious player can enter into the DTH business. It is highly unlikely that any of the DTH operator would resort to any illegal transmission of channels and therefore the requirement to have NOCC as a monitoring agency for DTH sector as well does not quite justify the rationale.

Further, the DTH license conditions requires a DTH operator to provide facility for continuous monitoring of the DTH broadcasting service at its own cost and maintain the recordings of programs and advertisements carried on the platform for a period of 90 days from the date of broadcast and therefore there is absolutely no requirement for an additional monitoring done by NOCC and pay for the same. Furthermore, it is a matter of record that till date NOCC has not provided any adverse report against any of the DTH operators. It is therefore requested that this requirement of payment of monitoring charges to NOCC may be done away with.

3. Disaster Recovery sites: The DTH license conditions the DTH operators to establish and complete the installation of the uplink earth-station with all monitoring facilities before commencement of DTH Platform. To safeguard the interests of the subscribers

and to ensure that the subscribers should not suffer in case of an eventuality arising out of natural calamity or similar situations, many the DTH operators have a Disaster Recovery/ backup head-end ('DR Sites'). Establishment and maintenance of such DR sites requires huge capital and for the purpose proper maintenance of such DR sites it is required that such sites do not remain non-operational. However the DTH operators are now allowed to operate more than one earth station at one given point in time which results into a situation where one of the earth stations (mainly the DR sites) lie unused most of the time. It is therefore requested that the DTH operators are allowed to use the DR sites simultaneously in usual course of operation, thus reducing burden on primary head-end.

Other Points- Government Presence in Broadcasting and DTH Sectors

The presence of Government in TV broadcasting and distribution sectors is a major factor in creating hurdles to the orderly growth of the sector.

1. DD-Direct was primarily started as a free platform to Deliver Doordarshan Channels

As the TRAI is aware, the DD-Direct was primarily started as a free platform in the year 2002 to deliver Doordarshan channels to viewers spread across vast hinterlands of India where the reach of terrestrial transmitters was limited. Doordarshan at that time had 20 Channels including DD National, DD News and DD Sports in addition to the regional channels. With terrestrial transmitters only the National and one regional channel could be delivered whereas DD-Direct could deliver all DD channels numbering over 20 in 2002.

The Platform had started with 4 Transponders, and with the MPEG-2 technology used could deliver up to 48 Channels at the time of launch. In order to motivate consumers to install dishes and STBs, a few private channels (numbering about 28) were added to the platform covering various genres during 2002 to 2006.

With the growth of customers to the DD-Freedish Platform as it was later called, Doordarshan started charging Rs 70 Lakhs per annum from private channels to cover the cost. Later from 2008 onwards, it started auction of slots.

2. Commercialization of DD-Direct Platform

What started as a good initiative was soon lost in sight as DD-Direct began commercialization of its services by auctioning the slots to private channels. The Capacity of the platform was increased to 80 channels by adding more transponders. The commercialization was projected by Doordarshan as a profitable venture, as the auction prices increased to about 4.3 Crores per channel by the beginning of year 2017 and later were fixed at Rs 8 Crores after there was a hue and cry about cartelization. However an analysis of the real facts reveals that in reality Doordarshan had caused itself a great harm by promoting private channels which moved the entire viewership base to these channels, in effect causing loss of hundreds of crores to Doordarshan by virtue of fall in its ratings and consequently advertising revenues. These facts came to light only after the BARC started rural ratings in 2016-17.

Due to the currently estimated 40 million customer base, the private channels, just with a payment of a pitiful amount of Rs. 4 to Rs. 6 Crores per annum, garnered Advt. revenues Rs 2500 Crores per annum. As per the data released, just 13 channels out of about 56 private channels on the DD-Direct garnered a total of Rs 1510 Crores Advt. revenues in FY 16-17.

The remaining popular channels garnered over Rs 1000 Crores in Ad revenues taking the total to Rs 2500 Crores in FY 16-17. In the current Year (FY 17-18) the figure is expected to be Rs 4000 Crores as the new winners in auction are top private broadcasters eliminating smaller but diverse content providers.

3. DD- Direct is causing Heavy Losses to Doordarshan

As officially announced by Prasar Bharti, the DD-Direct Revenues from Auctions were as follows:

FY 2015-16 Rs 180 Crores

FY 2016-17 Rs 264.17 Crores

At the same time the Advertising revenues of Doordarshan declined heavily. As per audited data it is revealed that the Advt. revenues were as follows:

FY 2014-15..... 1301 Crores

FY 15-16.....992 Crores (Loss of 309 Crores from FY 14-15)

FY 16-17.....475.7 Crores (Loss of 516.3 Crores from FY 15-16)

Of the figure of 475.7 Crores of Advt. revenues in FY 16-17, Rs 318.06 crore came from government advertisements and only Rs 157.59 crore from corporate ads during the year. In effect, within 2 years, the advertising revenues of Doordarshan have fallen from 1301 crores to 475 Crores of which bulk is from Government advertising. This is a loss in advertising revenues of Rs 826 Crores.

In 2015-16, Prasar Bharti received grants worth Rs. 2,734 crore from the information and broadcasting (I&B) ministry. For 2016-17, the government has raised the grants-in-aid to Rs. 3,108 crore, according to the annual report of I&B ministry.

The loss in advertising revenues for Doordarshan is owing to the viewership shifting to private channels on its platform. BARC data reveals that the top rated 15 channels on DD-Direct platform had GRPs of 50 to 80 while DD Channels had GRPs from 0 to 3.

Due to its Policy of offering the platform to private channels, Doordarshan has suffered heavy losses and the service is a loss making proposition, though projected otherwise.

The Direct Losses caused by DD Direct to Doordarshan are as follows:

The losses would have been higher if Govt. Advt. revenues are not counted as Corporate Ad revenues are just 157.8 Crores for the entire DD Network. Any single private channel of a top broadcaster has higher ad revenues than the entire network of Doordarshan (including DD- Direct and over 6000 transmitters and 40,000 engineering, marketing and managerial staff). This carnage has been caused by the DD-Direct Platform as there are no viewers for DD Channels as BARC data shows, with viewers having shifted to private channels.

DD-Direct DTH Operations are not in conformity with the Regulatory Environment

All DTH Platforms in India operate under a DTH License as per the DTH Licensing Policy which was enacted in 2001 after the prohibition on the reception and distribution of television signal in Ku Band was withdrawn by the Government vide notification No. GSR 18 (E) dated 9th January, 2001 of the Department of Telecommunications. Being a Government owned platform, the DD-Direct operates without any License, which was appropriate so far as it was carrying Doordarshan Channels, being a public service platform.

However after full commercialization of DD-Direct, where it is no longer a public service provider (only 24 channels of Doordarshan are carried against over 56 for private broadcasters), there is no justification for the platform to operate without any license. In effect the platform has become a vehicle for private channels to avoid paying license fees (payable on private DTH platforms), Taxes and other charges under the garb of being FTA with meagre payments of 4-8 Crores while generating huge advertising revenues and causing losses of Rs 3000 crores per annum to Government.

DTH License does not permit FTA Channels. As per the License Agreement for DTH clause 7.5 all channels on the Platform must be encrypted:

“All content provided by the DTH platform to the subscribers, irrespective of its source, shall pass through the encryption and conditional access system, located within the Earth Station, situated on Indian soil”

As DD-Direct is a commercial platform, there is no justification for it to violate the law of land by providing private channels in FTA mode.

DTH Operators are Subject to TRAI Tariff and Interconnect Orders

All DTH and Cable operators are subject to TRAI Tariff Order and TRAI Interconnect Regulations.

As per the recently issued tariff order of TRAI, each operator can charge a network capacity fees (NCF) which can be up to Rs. 130 per month (plus taxes) for first 100 channels; thereafter Rs. 20 for each additional 25 channels. As these Tariff regulations are very stringent (tariff is on the lower side), all operators are likely to charge a minimum of Rs 120-Rs 130 for first 100 channels. As DD-Direct provides a similar number of channels, it is appropriate that it should also be mandated charge a Network capacity Fees of Rs 130 plus taxes for first 100 channels in order to provide a fair playing ground for all DTH operators.

DD-Direct Operations will cause failure of Cable Digitization Program of Govt. of India (DAS-IV). The Cable digitization program is now in the final phase called DAS-IV where all cities and towns in India will get covered. As per the Tariff order of the TRAI, customers need to pay up to Rs 130 for first 100 channels, and then can also select channels a-la-carte. Hence many subscribers would opt for just 4-5 additional pay

channels beyond the first 100 at Rs 130. But if DD-Direct continues to provide 100 channels free, it will cause a complete failure of the Digitization program, which in turn will lead to losses in License fees and taxes of unspecified amounts as the Cable homes number over 180 million (18 crore homes).

All commercial platforms whether owned by the Govt. of India or by any PSU charge all fees and taxes as per extant laws and guidelines and follow the sector regulator's directives in regard to tariff and operating guidelines. There are no exceptions to this rule whether in Telecom, Aviation or Hospitality sectors. The DD-Direct, is a fully commercial platform and needs to be complaint with sector Licensing rules and tariff as well as interconnect guidelines. Today, it is helping viewers avoid Taxes to the tune of Rs 3000 Crores per annum as License fees and GST which would be collectible if the same channels are offered on pay DTH or commercial platforms rather than funded from public exchequer.

4. Encryption of DD-Direct

There is an urgent need to set the anomalies right by converting DD-Direct to an encrypted platform. The Doordarshan channels can be authorized to any/ all viewers on demand, while the platform must be mandated to charge Rs 100-130 per subscriber per month for delivering 80-100 channels as is the case today.

DD-Direct while experimenting with some encryption systems has not perfected these, nor has it developed any middleware and Customer management/ support systems which are essential to support a pay customer base. It is suggested that these services comprising of encryption, STB management, CRM, Call Centers and customer support centers be outsourced to existing and experienced operators preferably with customer bases of over 10 Million, which can be selected by DD. This will enable the platform conversion to an encrypted platform without delay and generate a new revenue stream for DD-Direct.

At the same time, Doordarshan should focus on its prime responsibility of providing high quality programming which should benefit viewers and the government alike through its DD Channels.

Concluding Comments on Government Presence in Broadcasting Sector:

DD-Direct has swayed from its path of providing Public Service channels of Doordarshan to large population bases in vast hinterlands of India and instead launched a fully commercial DTH service. There is a misplaced notion that DD-Direct is garnering huge auctions from revenues and leading DD to profits, but the facts are to the contrary. Against meagre revenues from auction of Rs 6-8 Crores it is enabling private channels to garner Ad revenues which totaled over 2500 Crores in 2016-17. At the same time, the availability of free private channels on its platform has led to a crash in ratings of Doordarshan channels, and consequent fall in Advt. revenues. The loss in Advt. revenues in 2015-16 as compared to 2014-15 was Rs 309 Crores and in 16-17 it was Rs 824 Crores. In addition, by migration of customers from paid and licensed DTH platforms the losses due to license fees and taxes were Rs 1634 Crores and Rs 2020 Crores in the same period (FY 15-16 and 16-17).

The DD-Direct, which started as a Public utility platform for Govt. channels is now fully commercial with over 56 private channels and needs to follow the laws of the land for commercial DTH platforms. The DD-Direct platform is also stifling the orderly growth of Pay DTH and Licensed services in India by offering free channels funded by exchequer, helping a group of private broadcasters avoid license fees and GST, (which would be applicable if they were to be on any other platform), causing a failure of India's cable digitization program and not following the tariff orders of the Sector regulator.

There is an immediate need to convert the DD Direct platform to a pay DTH platform requiring encryption, customer service, CRM and call centres etc. which in the interest of time can be entrusted to a third party leaving DD to devote time to improve its programming and content.
