

entertainment network (India) limited

Corporate Office: 14th Floor, Trade World, D-Wing, Kamala Mills Compound, Senapati Bapat Marg, Lower Parel (West), Mumbai – 400 013, India. Tel: 022 6753 6983.

Via Email

March 09, 2023

To,

Shri Anil Kumar Bhardwaj

Advisor (B&CS)

Telecom Regulatory Authority of India

Mahanagar Doorsanchar Bhawan

Jawaharlal Nehru Marg,

New Delhi-110 002

Email: advbcs-2@traigov.in and jtadvbcs-2@traigov.in

Sub: Response to the Consultation Paper dated February 09, 2023, on “Issue related to FM Radio Broadcasting” (hereinafter referred as ‘CP’ for brevity)

Dear Mr. Bhardwaj,

At the outset, We, Entertainment Network (India) Limited (**‘We’/ ‘ENIL’**), express our appreciation for the participative approach of TRAI in discussing issues related FM Radio Broadcasting. The CP is a very well researched document which meticulously sets out the most critical issues pertaining to FM Radio industry. We hope that this paper would lead to recommendations that would help the revival of the FM Radio industry.

At the outset, we would like to appreciate, that the CP highlights a very important provision in Phase III FM Radio policy viz. – ***“Clause 30.3: The Government shall have the right to modify at any time the provisions of these guidelines and/or the terms and conditions of permission, if in the opinion of the Government it is necessary or expedient to do so in public interest or in the interest of the security of the State. The decision of the Government shall be final and binding in this regard.”*** (Emphasis supplied)

This is an over-arching provision which empowers the Ministry of Information and Broadcasting (MIB) to accept and implement TRAI’s recommendations pursuant to CP on all points of consultation and removes any bar or impediment in the policy wordings contrary to it. Addressing the issues listed in the CP would be undoubtedly in public interest too, as the revival of FM industry will also benefit the consumers of FM radio by ensuring access to free entertainment as well as socially relevant content that FM radio provides, catering to every strata of the society. We sincerely believe that there could not be a more opportune time to press this provision into service to make the necessary modifications in the extant policy to address the critical issues mentioned in the CP.

entertainment network (India) limited

Corporate Office: 14th Floor, Trade World, D-Wing, Kamala Mills Compound, Senapati Bapat Marg, Lower Parel (West), Mumbai – 400 013, India. Tel: 022 6753 6983.

Before we answer the specific questions asked in the consultation, it would be pertinent to highlight certain important fact and also grim realities of the Indian FM Radio industry to set the context of our comments/suggestions:

1. The Financial Health of the FM Industry and the COVID impact:

- Due to the massive financial impact caused by the COVID 19 pandemic and the nation wide lockdowns, ENIL has recorded a **drop of 51% in their revenues in the financial year 2021**. In fact, as per the data published by Telecom Regulatory Authority of India (TRAI), the revenues of the **entire radio industry have fallen tremendously from INR 1502.11 crores for the period April to December 2019 to INR 619.95 crores for the period April to December 2020**. These facts are even recorded in TRAI's Indian Telecom Services Performance Indicators Reports for April – June 2019, July – September 2019 and October – December 2019 as well as April – June 2020, July – September 2020, October – December 2020.
 - A perusal of the FICCI – Ernst & Young Report on Media & Entertainment, 2021 published in March 2021 (FICCI Report 2021) demonstrates that **radio advertisement volumes fell by 27% in CY 2020 as compared to CY 2019**. It is noteworthy that, as per the FICCI Report 2021, the **radio industry's revenue (gross of tax) declined from INR 31.1 billion in CY 2019 to INR 14.3 billion in CY 2020**. The revenues of the radio industry recorded a massive plunge of 54% in CY 2020 as compared to CY 2019 on account of both ad rate and volume drops since key advertiser segments (regional and retail) were unable to run their businesses at their usual scale due to multiple waves of COVID-19 pandemic.
 - In order to sustain the adverse financial impact of the pandemic, ENIL was not only forced to downsize its workforce from 1124 in FY 2020 to 910 in FY 2021, but was also forced to implement massive pay cuts for its personnel during the aforesaid period. The adverse impact of the pandemic is also demonstrated by the Applicant's inability to release any incentives, bonuses or even regular annual increments to its employees. ENIL's Annual Report for FY 2021 highlights these facts and figures.
2. It is noteworthy that in the past three years, the combined effect of the economic slowdown owing to COVID-19 pandemic, high license fees, high recurring infrastructure costs, high music royalty costs, declining ad-revenues and lack of any relief granted by the government to the industry, severely affected the private FM radio industry. It even resulting in **shut down of 8 radio stations prior to the pandemic, and 3 radio stations thereafter**, as detailed below:

entertainment network (India) limited

Corporate Office: 14th Floor, Trade World, D-Wing, Kamala Mills Compound, Senapati Bapat Marg, Lower Parel (West), Mumbai – 400 013, India. Tel: 022 6753 6983.

Radio stations which shut down prior to COVID 19 pandemic:

- i. Chennai Live (Muthoot Finance), Chennai
- ii. Rangeela FM (Renuka Fincom), Rajput
- iii. High FM, Siliguri
- iv. Gyan Vani, Kolkata- 105.4 FM
- v. Amar 106.2 FM, Kolkata
- vi. Power 107.8 FM, Kolkata (Hitz FM)
- vii. Nine 91.9 FM, Siliguri (Chinar Circuits Ltd)
- viii. Singla Property, Hissar

Radio stations which shut down due to COVID-19 pandemic:

- i. Odissa TV FM station in Bhubaneswar
- ii. Odissa TV FM station in Cuttack
- iii. Sarthak Films, Bhubaneswar

3. Radio is a free-to-air medium which is **purely dependent on advertisement revenues**. It has been adversely affected due to the influx of digital platforms. Much of the advertising spends are now on digital mediums thereby impacting the revenue potential of FM Radio adversely. This is also because of the limitation of being audio-only medium with limited FCT inventory available with FM radio operators, as the broadcasters need to have to balance of music and ad content to retain their audiences.

4. It is noteworthy that as per the FICCI Report, 2021, radio industry will take beyond four years to regain the financial position that existed in 2019 (pre-pandemic). Further, a perusal of Pitch Madison Advertising Report, 2021 released in February 2021 (Pitch Madison Report, 2021) estimated that the revenue levels even in CY 2022 would be still approximately 22% lower than the pre-pandemic revenue levels for radio sector, which gives a fair idea that the radio sector will at least take approximately 5 years at minimum to be at pre-pandemic revenue levels. It is also pertinent to note that the market share of radio was estimated to be abysmally low at 2.6% in CY 2021 as compared to digital which is estimated to be 31%. The data extracted from the Pitch Madison Report, 2021, reproduced hereinbelow, demonstrates the standing of various media sectors in terms of revenues and market share:

	Rs. In Crs				
Medium	CY2019	CY2020	CY2021 (Estimate)	CY 21 over CY 20	CY 21 over CY 19
Television	25,291	22,508	26,350	17.1%	4.2%
Digital	15,467	16,974	21,200	24.9%	37.1%
Print	20,045	11,925	16,100	35.0%	(19.7%)
OOH	3,495	1,292	2,450	89.6%	(29.9%)
Radio	2,260	1,270	1,750	37.8%	(22.6%)
Cinema	1,045	182	475	161.0%	(54.5%)
Total	67,603	54,151	68,325	26.2%	1.1%

entertainment network (India) limited

Corporate Office: 14th Floor, Trade World, D-Wing, Kamala Mills Compound, Senapati Bapat Marg, Lower Parel (West), Mumbai – 400 013, India. Tel: 022 6753 6983.

Market Share Comparison

Medium	CY2019	CY2020	CY2021 (Estimate)
Television	37.4%	41.6%	38.6%
Digital	22.9%	31.3%	31.0%
Print	29.7%	22.0%	23.6%
OOH	5.2%	2.4%	3.6%
Radio	3.3%	2.3%	2.6%
Cinema	1.5%	0.3%	0.7%
Total	100.0%	100.0%	100.0%

Radio revenue in FY24 is expected to be only 67% of Pre-Pandemic numbers as FICCI Report, 2022.

As per Pitch Madison 2023, CY 2023F Radio share is 2.3% and Digital share is 41.3%.

INDIAN ADVERTISING MARKET OVER THE LAST 4 YEARS (JAN - DEC)

Medium	Yr 2019		Yr 2020		Yr 2021		Yr 2022		Growth% 2022/21
	In Rs Crore	% Share	In Rs Crore	% Share	In Rs Crore	% Share	In Rs Crore	% Share	
TV	25291	37%	22508	42%	28151	38%	30662	34%	9%
Print	20045	30%	11925	22%	16595	22%	18470	21%	11%
Radio	2260	3%	1270	2%	1733	2%	2032	2%	17%
Cinema	1045	2%	182	0%	136	0%	568	1%	317%
Outdoor	3495	5%	1292	2%	2178	3%	3666	4%	68%
Total Traditional	52136	77%	37177	69%	48793	66%	55399	62%	14%
Digital	15467	23%	16974	31%	25438	34%	34405	38%	35%
Total	67603	100%	54151		74231		89803		21.0%

entertainment network (India) limited

Corporate Office: 14th Floor, Trade World, D-Wing, Kamala Mills Compound, Senapati Bapat Marg, Lower Parel (West), Mumbai – 400 013, India. Tel: 022 6753 6983.

	2019	2020	2021	2022E	2024E	CAGR 2021-2024
Television	787	685	720	759	826	5%
Digital media	221	235	303	385	537	21%
Print	296	190	227	241	251	3%
Online gaming	65	79	101	120	153	15%
Filmed entertainment	191	72	93	150	212	32%
Animation and VFX	95	53	83	120	180	29%
Live events	83	27	32	49	74	32%
Out of Home media	39	16	20	26	38	25%
Music	15	15	19	21	28	15%
Radio	31	14	16	18	21	9%
Total	1,822	1,386	1,614	1,889	2,320	13%

All figures are gross of taxes (INR in billion) for calendar years | EY estimates

5. In addition to the fact that radio has only one avenue of earning revenues i.e. advertisements, We need to highlight the enormous input costs payable by radio broadcasters by way of fixed costs as mandated by Prasar Bharati and MIB, including Wireless Operating License Fee, Prasar Bharti Tower Rental Fee, Operation and Maintenance of Common Transmission Infrastructure, the One Time Entry Fee under Phase III and percentage of revenue shared with MIB. The above fixed costs in the last three financial years beginning 2017 till 2020, have been **77% – 84% of ENIL's gross revenue** for each financial year, respectively. Further, the ENIL also incurs huge costs for **employee retention which counts for 25% of the ENIL's revenue.**
6. It is also noteworthy that radio broadcasters, through their FM radio stations, serve a larger public interest by acting as a vehicle of social upliftment and education for the masses. The role performed by the radio industry was even more impactful during the lockdown occasioned by the COVID-19 pandemic, during which time approx. 82% of the nation's population tuned into FM Radio for credible information. The importance of radio broadcasting through FM radio stations to ensure timely and authentic information dissemination is also noteworthy from a perusal of MIB's letters dated 23 March 2020 and 20 May 2021.

With the aforesaid background, we now attempt to address the specific points for consultation as follows:

- Q1. Are provisions related to Annual License Fee prescribed in the extant Policy guidelines for FM Radio broadcasting reasonable? If not, please provide methodology and criteria for arriving at Annual License Fee for private FM Radio channels with detailed justification.**

entertainment network (India) limited

Corporate Office: 14th Floor, Trade World, D-Wing, Kamala Mills Compound, Senapati Bapat Marg, Lower Parel (West), Mumbai – 400 013, India. Tel: 022 6753 6983.

ENIL Response:

One of the most critical issues faced by private FM broadcasters today, is concerning the current formula used for calculating the Annual License Fee ('Annual Fee'), as provided under clause 3.1 Grant of Permission Agreement (GOPA), which was mandatory for all FM broadcasters migrating to Phase III of the FM radio licensing regime.

The formula for calculation of Annual Fee as it currently stands is - higher of: (a) 4% of Gross Revenue for the financial year; or (b) 2.5% of the Non-Refundable One-Time Entry Fee ("NOTEF") **which is an auction discovered price i.e., highest bid amount for the concerned city.** The CP very succinctly sets out the chronology of events leading to the finalization of the said formula, hence we are not re-stating it here for brevity.

The fixation of Annual Fee based on NOTEF actually results in serious discrimination between (a) migrants to Phase III in cities where only one or two channels are auctioned, **leading to a scarcity premium** i.e. the bid prices were way higher than the reserve price (e.g. Delhi) on one hand and (b) on the other hand, cities where (i) either the Annual Fees were calculated on the basis of gross revenue in absence of any auction or no bids received in Phase-III auction, resulting in no NOTEF being available and (ii) where the Annual Fees were closer in proportion to the gross revenue because the NOTEF were barely over the reserve price (which was based on the One Time Entry Fee fixed in 2006).

The maximum pinch of this is felt by small independent FM operators. To exemplify, let's take the glaring instance of Clear Media (India) Private Limited (**'Clear Media'**). Clear Media is an independent broadcaster operating a single frequency in Delhi. **Since there was only one frequency auctioned in Delhi in Phase III auctions, the NOTEF was obviously exorbitant.** This created a huge gap between the 2 parameters of the formula i.e., Gross Revenue and NOTEF. Clear Media's gross revenue for FY 2014-15 was approximately Rs. 6.55 crores, 4% of which amounts to approximately Rs. 26.24 lakhs. Whereas 2.5% of the NOTEF, however, comes to approximately Rs. 423 lakhs, based on the current formula. Thus, **the Annual Fees calculated on the basis of NOTEF was almost 16 times the Annual Fees calculated on the basis of gross revenues.** This forced Clear Media to file Writ Petition (8759/2015) before the Hon'ble Delhi High Court in 2015, for setting aside this formula amongst other prayers, which is still pending adjudication ('Clear Media Writ').

However, it does not mean that this formula affects only small broadcasters. ENIL, which is one of the largest FM broadcaster, as well as other major broadcasters felt the brunt of it too. This led ENIL join the fight against this arbitrary formula, leading to a similar Writ Petition being filed by it before the Hon'ble Delhi High Court, which has been tagged along with Clear Media Writ and currently pending adjudication.

entertainment network (India) limited

Corporate Office: 14th Floor, Trade World, D-Wing, Kamala Mills Compound, Senapati Bapat Marg, Lower Parel (West), Mumbai – 400 013, India. Tel: 022 6753 6983.

These facts and example establish beyond doubt, the inherent arbitrary nature of the current formula.

On being asked by MIB to the TRAI, for its recommendations on the issues relating to charging of migration fee i.e. the Non-Refundable One-Time Migration Fees (“NOTMF”), TRAI rightly stated that:

“...where channels available for auction are one-third or less of the total channels in that city, i.e., the number of channels available for auction in such cities are scarce and thereby the auction-determined prices in such cases may not represent the fair underlying value of the resource as such prices would be determined under a supply constraint and using these prices as a reference price for determining the migration fee ... may not be reasonable”. (Emphasis supplied).

MIB accepted TRAI’s recommendations regarding the unsuitability of using auction discovered prices insofar as the NOTMF was concerned. However, it did not consult the TRAI, as mandatorily required under the 2nd proviso to Section 11(1) of the TRAI Act in respect of Annual Fee calculation and decided not to apply the underlying logic of the recommendations when it came to the Annual Fees. MIB has till date failed to provide any rationale, reports, notes of deliberation giving logic of the current formula of Annual Fee till date.

It is relevant to point out that, **the Phase-III Policy notified on 25.7.2011** expressly stated in para 31.4 that the “annual fee payable by existing permission holders of Phase-II shall continue to be determined as 4% of Gross Revenue or 10% of Reserve OTEF for the city determined for the city during Phase-II bidding.” MIB has, however, chosen not to provide the basis for amending the 2011 Policy on Migration by the Order dated 21.1.2015 which makes the current formula obviously arbitrary and devoid of logic.

In the current economic scenario, which is already crippled by the pandemic, such formula which is completely oblivious to the financial realities of the FM broadcasters, will only lead to extinction of FM industry, if not rectified in time. If bigger broadcasters like ENIL have taken massive revenue plunge of around 51% in the last financial year, the plight of the smaller broadcasters is beyond imagination.

We, as the representative of the FM industry, therefore, earnestly urge you to make appropriate recommendation for making corrections to the Annual Fee formula by de-linking it completely from NOTEF or NOTMF and simplify the same as follows:

‘Annual Fee to be 4% of the Gross Revenues’.

entertainment network (India) limited

Corporate Office: 14th Floor, Trade World, D-Wing, Kamala Mills Compound, Senapati Bapat Marg, Lower Parel (West), Mumbai – 400 013, India. Tel: 022 6753 6983.

Q2. Is there a need to extend the permission period for existing FM Radio licensees?

a. If yes, what should be the revised permission period? Please prescribe the period with detailed reasoning/ justification.

b. If not, is there a need to extend any other assistance to private FM Radio broadcasters to overcome the impact of the pandemic? If so, please suggest suitable measures with quantified parameters and justification.

ENIL Response:

Yes, there is an urgent need to provide at least a three-year extension of the existing permissions alongwith at least 2 years waiver of Annual License Fee, for the reasons explained below:

(i) As we all are aware, our Central Government and various State Governments had imposed complete lockdown measures to strictly implement social distancing in order to curtail the spread of the life-threatening pandemic in the years 2019, 2020 and 2021. As reported in the media, as on 24 March 2020, as many as 30 States and Union Territories, totaling 548 districts has imposed total lockdowns. Even prior to the complete lockdown by the States, private sector had implemented work from home policies to protect their employees and avoid the rampant spread of the pandemic. In a stepwise manner, public transport stopped, and various inter-dependent businesses eventually reached stagnancy.

(ii) A natural repercussion to the nationwide lockdown is that almost all businesses are suffering heavy economic losses. Businesses did not have enough resources to spend on media advertisements and restricted and even cancelled pre- decided ad-campaigns to curtail their losses. ENIL and other FM broadcasters **could not procure enough media advertisements revenue from private sector, which is the prime source of its income and funding**. This in turn, further caused unsustainable losses to ENIL like the rest of the FM radio industry.

(iii) **ENIL itself had to cancel several events and concerts. The on-ground event Calendar was blank for almost 2 years.** Further, a number of clients cancelled their radio advertisements. With rapidly declining revenues and a fixed cost structure (given the nature of the radio business), our financial

entertainment network (India) limited

Corporate Office: 14th Floor, Trade World, D-Wing, Kamala Mills Compound, Senapati Bapat Marg, Lower Parel (West), Mumbai – 400 013, India. Tel: 022 6753 6983.

position deteriorated, and the business was in dire need of generous reliefs from the Ministry for which we had written multiple times individually as well as collectively through Association of Radio Operators for India.

(iv) Further as mentioned above, we had to continue operations to bring information, solace and companionship to our listeners in the testing times and did not close operations but stood to be a voice of reason. Even the Ministry expected the FM industry to remain operational recognizing it as one of the ‘essential services’.

(v) Our employees and other wage earners had to be paid in full and we could not impact their lifelines because of the epidemic. The cost of operating the radio stations and bare necessities had also gone up in light of the hoarding and public disarray. Thus, it was an apparent ‘Force Majeure Event’ caused by the COVID-19 pandemic which directly and materially affected the business and ability of performance of obligations of ENIL and other broadcasters under the Grant of Permission Agreements (GOPA) entered into by them. In spite of this the Government demanded late payment fees and interest from the broadcasters!

(vi) The adverse effect of this crisis on the economy and the radio industry persisted even after the medical crisis were over. Hence, we prayed for reliefs from the Ministry which could address both the COVID and the post COVID medical crisis period in order to help the Radio industry and ENIL to recover from the enormous damage that this crisis continued to cause.

(vii) AROI had addressed a letter to the government seeking a bailout package, in view of the impact of the Coronavirus outbreak on the industry. The AROI requested the government to consider certain concession requests since many brands were restricting expenditure on media. The alarming condition of the industry was evident from the declining revenue numbers of the radio industry. In view of the above, even though the COVID-19 pandemic was clearly covered under the Force Majeure Events stipulated under the GOPA, not even contractual reliefs were granted by the government.

(viii) We thank TRAI for rightly highlighting the relief packages offered by the various governments across the globe to the pandemic affected FM radio industry in the respective countries. There is no reason why the MIB should

entertainment network (India) limited

Corporate Office: 14th Floor, Trade World, D-Wing, Kamala Mills Compound, Senapati Bapat Marg, Lower Parel (West), Mumbai – 400 013, India. Tel: 022 6753 6983.

not grant reliefs to the broadcasters who have paid crores of monies in form of license fees to the government over the years.

Q3. Is there a need to review the present Policy guidelines as regards the News and current affairs on private FM radio stations? If so, please provide detailed justification, including the additional compliance/ reporting (if any), duration of news and current affair programmes and method of effective monitoring may be suggested.

ENIL Response:

Yes, there is an urgent need for reviewing the policy guidelines as regards the News and current affairs on private FM radio stations. Unlike the US, UK, Canada, Australia or, closer home, Bangladesh, Nepal and Sri Lanka where news on radio is the norm, India is still stuck in an age-old mindset wherein government restrictions have inhibited the growth of a dynamic medium.

We commend TRAI for taking up this crucial issue for consultation. As per the existing rules, FM radio broadcasters can only air AIR bulletins in ‘exactly the same format’. This is a unfair situation in an age where private television channels and the digital mediums, though unregulated, are allowed to broadcast news and current affairs programmes.

A recent article at:

<https://www.thehindubusinessline.com/opinion/editorial/de-facto-news-ban-on-fm-community-radio-unjustified/article66520927.ece> quotes:

“The medium has played a much lauded and critical role in strengthening peace initiatives in countries like Timor-Leste and Cambodia on one hand and has been a catalyst for social progression and rural development in young democracies like Nepal. It is simultaneously a legitimate business for the license-holders. So, in contrast to the best of global practices which have led to radio being a primary source of not just entertainment but crisp, professionally-produced and, most importantly, localized news, India is stuck in a time warp. FM channels have not warmed to broadcasting AIR news, as it could jar with the sound and tenor of their stations. Popular FM channels have been impressing upon governments for over two decades that they should be allowed to produce news content for their niche audiences.” (Emphasis supplied).

entertainment network (India) limited

Corporate Office: 14th Floor, Trade World, D-Wing, Kamala Mills Compound, Senapati Bapat Marg, Lower Parel (West), Mumbai – 400 013, India. Tel: 022 6753 6983.

In this context, following are the main reasons why we suggest that news and current affairs should be permitted to be produced or syndicated by private FM channels:

- i. **Level playing field for FM broadcasters:** No medium of broadcast like print, TV (regulated), All India Radio or digital (unregulated) have embargo on broadcast of news and current affairs, subject of course, to following of certain mandatory requirements. Private FM broadcast has enormous reach and a great connect with the masses. It is one of the best placed mediums to disseminate important news and current affairs free-of-cost. There is no logic as to why they should not be permitted news. The permission will only create a level playing field for the medium.
- ii. **Localized news content:** Unlike the national broadcaster like AIR, private FM radio has a separate radio station in each of the 388 locations in the country across more than 100+ cities. This gives them the unique advantage over any other medium, to communicate real-time in local language and even dialects, which give it an unparalleled local connect and is thus best poised to create and broadcast hyper-local news, which can keep the local audiences updated about the news most relevant to them, in the language they best understand. This can include translation and commentaries in local languages of sporting event of national importance, critical crime alerts relating to their area/neighborhoods, real time natural disaster alerts which are most relevant to their geography (e.g., cyclones, hurricanes etc.) and related rescue and recourse options available for the local population etc. In most parts of the world it has been seen that FM radio has been most effective and lifesaving in case of relief operations during natural disasters due to the robustness of the medium and availability for transmission even when all other broadcast mediums like TV, internet or mobile networks are down.
- iii. **Private FM can follow same regulations as followed by other mediums:** the government can amend the existing Phase III policy/GOPA to mandate the private FM broadcasters to follow specific guidelines or regulations as regards news broadcasting, as applicable for other mediums. This can remove any apprehensions regarding

entertainment network (India) limited

Corporate Office: 14th Floor, Trade World, D-Wing, Kamala Mills Compound, Senapati Bapat Marg, Lower Parel (West), Mumbai – 400 013, India. Tel: 022 6753 6983.

monitoring, control or accountability for the content broadcast by them.

- iv. **Option of production of news content or syndication from other mediums:** We also suggest that the private FM broadcasters may be given option to either create news content or source the same from a recognized news broadcaster. Many of the private FM broadcasters belong to reputed media houses and have the wherewithal to create in-house news content. Additionally, they or other FM broadcasters (who do not belong to groups who already broadcast news) can source authentic news from recognized sources to save on costs and infrastructure required for journalism and news content creation.
- v. News content can help FM broadcasters manage their music royalty expenditure: Currently private FM broadcasters are heavily dependent on broadcast of music content, which entails crores of rupees of royalty payments to music licensors. This is because the royalty payouts are majorly based in 'per needle hour' basis i.e. depending on number of hours of music played in an hour/day/month. If the broadcasters have the option to run news/current affairs programs, this dependency can ease and the expenditures can be controlled to a large extent, thus indirectly helping the ailing industry.

In view of the aforesaid, we strongly urge that flexibility of broadcasting news and current affairs content be granted to private FM broadcasters and the policy be amended accordingly.

Q4. Is there a need to mandate that all the Mobile Handset manufactured/sold in India will require to have an in-built FM Radio receiver? Please provide detailed justification for your comments?

ENIL Response:

Yes, there is an urgent and important need to issue this mandate, for the reasons explained below:

- As per data published by Ministry of Information and Broadcasting, **as of August 15, 2022 there are 388 operational private FM Radio stations in 100+ cities in India serving more than 70% of the Indian population.** FM Radio broadcasting in India is not only a medium of entertainment but also a vehicle

entertainment network (India) limited

Corporate Office: 14th Floor, Trade World, D-Wing, Kamala Mills Compound, Senapati Bapat Marg, Lower Parel (West), Mumbai – 400 013, India. Tel: 022 6753 6983.

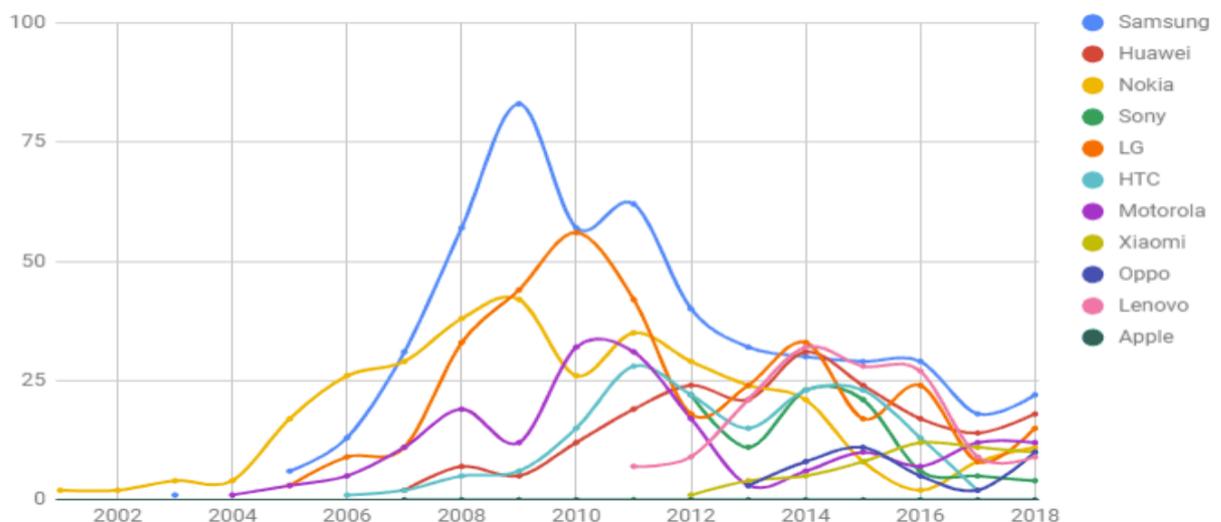
of social upliftment and education. Radio stations have been considered as enablers and information providers that not only create awareness among people but also assists in authentic information dissemination.

- There was a survey was conducted by consumer insights firm Toluna India in key cities and towns between December 19, 2022 and January 2, 2023. It showed that in addition to Tier I cities, FM radio listenership in Tier-II and -III markets is on the rise. One of the key findings of the survey is that working professionals are big consumers of FM radio, with nine out of 10 such respondents saying that they regularly listen to the radio. As much as two-thirds of the students surveyed also claimed to be regular radio listeners.
- **Mobile phones and car music systems are the most used devices for radio consumption, it showed.**

(Link:<https://economictimes.indiatimes.com/industry/media/entertainment/media/tier-ii-and-iii-markets-tuning-in-more-to-fm-radio-says-new-survey/articleshow/97184189.cms>)

It is pertinent to note that **music OTTs started in India post around 2012**. During the period **2008-2010 models carrying FM radio tuners were at all time peak**. Surprisingly the same started declining post 2012, falling to abysmal level by 2018, with particularly Apple phones having no FM functionality at all. GSM arena, an independent website which evaluates and analyses smartphones models across all manufacturers has given an interesting chart as reproduced below, which depicts this fact evidently:

Models with FM radio



(Source: https://www.gsmarena.com/counterclockwise_fm_radio_is_past_its_peak-news-34707.php)

entertainment network (India) limited

Corporate Office: 14th Floor, Trade World, D-Wing, Kamala Mills Compound, Senapati Bapat Marg, Lower Parel (West), Mumbai – 400 013, India. Tel: 022 6753 6983.

- We can clearly see a sharp decline in mobile handsets having FM functionality from 2014, the **time when Music OTTs were about to be launched. Services like Apple Music, Amazon Music, Spotify, Wynk etc. started entering Indian markets post this period with their Apps being pre-loaded in various mobile handsets.** There cannot be a clearer indicator of the restrictive trade practices of these large international players **to drive out a popular free service like FM Radio out of the mobile market, so that people who wish to consume music are first addicted to free music streaming from these music OTT apps, which slowly tuned into subscription based model, compelling mobile users to pay for more Data from telecom service providers and also subscription fees to music OTTs due to lack of option of free services of FM radio broadcast.**
- Here is another table based on internal research through the marketing teams in year 2019, which shows how the high end smartphones stopped carrying FM functionality:

Price	Without FM (in nos)	Without FM as % of Total	With FM (In nos)	With FM as % of Total	Total Nos	Total as %
upto 5k	5	3%	19	11%	24	13%
5k-10k	33	18%	34	19%	67	37%
10k-15k	16	9%	21	12%	37	21%
15k-30k	17	9%	19	11%	36	20%
>30k	14	8%	1	1%	15	8%
Grand Total	85	47%	94	53%	179	100%

- This table clearly indicates **how basic models (which do not carry pre-loaded music apps) still have FM tuners and how high end mobile phones (smartphones) which carry pre-loaded music apps and use internet (4G data) and are most used in Tier I cities (population who can afford subscription based music OTT services the most) have stopped carrying FM functionalities.**
- Initially for listening to FM Radio channels, standalone radio receivers were used. With the advancement of technology, FM radio receivers were integrated with Mobile handsets doing away with the need for standalone radio receivers. This helped people from all strata of society to have access to FM Radio channels. **Availability of radio receiver on the Mobile handset enables the poorest of poor as they could connect to radio without needing to spend on an additional device.** Radio reception is available free of cost to the user without necessitating subscribing to data plan from Telecom Service Providers. As such, availability of FM Radio on mobile phones serves the information, entertainment, educational needs of the underprivileged section of the society.

entertainment network (India) limited

Corporate Office: 14th Floor, Trade World, D-Wing, Kamala Mills Compound, Senapati Bapat Marg, Lower Parel (West), Mumbai – 400 013, India. Tel: 022 6753 6983.

- **It can be observed from the above data that how many mobile handsets included an FM Radio App earlier.** Such FM Radio App was either provided by Mobile Handset Manufacturer or available for download. However, such apps are not available on Google Play-Store or Apple App-Store since last three-four years. Another indicator of restrictive trade practices carried out by telecom service providers (to increase data consumption by music streaming) and music OTT players (to increase their app downloads and augment their subscription numbers).

With this background in perspective, we have attempted to further elaborate on the main rationale for this aforesaid request, since we consider the same to be of great national importance:

1. Is it easy to have FM broadcast reception on Mobile Phones?:

Absolutely! Anyone can easily turn the mobile phone into an FM radio if it has an embedded chipset and the proper circuitry to connect that chip to an FM antenna. As mentioned in the article on CNET, all you need is an app like NextRadio, which lets you tune into the signal, and something to act as an antenna, such as headphones or non-wireless speakers. (Link-<https://www.cnet.com/tech/mobile/everything-you-need-to-know-about-fm-radio-on-your-phone/>)

Most smartphones even now, include integrated chipsets that offer a variety of wireless technologies, such as Wi-Fi, Bluetooth and FM radio. But until a few years ago, device manufacturers disabled the function of FM reception-- often at the urging of wireless carriers that wanted customers to stream music and podcasts, and consume more data as seen above.

2. Importance of FM broadcast as a robust and reliable communication system:

- The reason we stress this request also to be of national importance is majorly from a perspective of natural or man-made disaster management. In such situation **what is of utmost importance is speedy and reliable communication of critical information to masses.** This helps not only in limiting the impact of such disasters but also reaching out to those affected and educating about the precautionary measures to those who are not impacted by the same.
- As we all know, the most commonly available and used device by majority of the population is a mobile device. Communication over these devices can happen through mobile networks i.e., voice or messaging services or through internet connectivity. However, the world has experienced even though mobiles, being widely available with people are the fastest mode of communications, the mobile

entertainment network (India) limited

Corporate Office: 14th Floor, Trade World, D-Wing, Kamala Mills Compound, Senapati Bapat Marg, Lower Parel (West), Mumbai – 400 013, India. Tel: 022 6753 6983.

network and even the internet connectivity/Wi-fi communications are known to fail during large scale disasters such as Tsunamis, earthquakes, hurricanes etc. This can happen due to various reasons like high call traffic causing networks to be jammed, power cuts etc.

- During a large-scale disaster, people who are trapped under collapsed buildings or landslides may have a large chance to survive if they are rescued in 72 hours. However, reaching those in trapped in 72 hours is challenging because communication networks, fixed or mobile, are usually down during disasters, making SOS message dissemination extremely difficult. **For example, in Jiji earthquake, Chunghwa Telecom, the largest telecommunication operator in Taiwan, took 15 days to restore the whole mobile communication systems.** Another example is, all carriers halted communication service operations of up to 29,000 base stations in the great east Japan earthquake. As a result, people in the disastrous area were unable to call for help, making it difficult to locate them thereafter. Thus, it is crucial to establish a system of emergency communication in order to timely deliver SOS messages to rescue authorities.
- **Three weeks after Hurricane Maria hit Puerto Rico, more than 76 percent of cell sites stopped functioning,** according to the FCC, hampering recovery efforts and putting lives at risk. It's why officials in Puerto Rico turned to FM radio stations to help coordinate the pickup and delivery of relief items from ports to communities throughout the island, according to a Time article. There was simply no other way to tell local relief workers where to go and when.

"When truckers heard the call, goods finally started leaving the port," according to Time.

"This is a no-brainer in terms of public safety," said Michael McEwan, director of the North American Broadcasters Association, or NABA, which drafted the opinion the ITU adopted. ***"You look at what happened during the recent hurricanes. Broadcast radio is the only thing that kept going."***

(Link- <https://www.cnet.com/tech/mobile/everything-you-need-to-know-about-fm-radio-on-your-phone/>)

- Another popular approach is to utilize the communication capabilities (e.g., Bluetooth or Wi-Fi) of mobile devices to transmit SOS messages through wireless ad hoc network during a disaster. The limitation of this approach is its insufficient communication ranges and its susceptibility to obstacles or interference, making it unfavorable for some cases such as searching survivors under a collapsed building or landslide.

entertainment network (India) limited

Corporate Office: 14th Floor, Trade World, D-Wing, Kamala Mills Compound, Senapati Bapat Marg, Lower Parel (West), Mumbai – 400 013, India. Tel: 022 6753 6983.

3. Why FM transmission plays an important role in a catastrophic situation:

- It is a well-known fact that FM broadcasting uses frequency modulation (FM) for high-fidelity broadcasts of music and speech. Broadcasting FM radio is popular and well-established in ubiquitous worldwide coverage. Police, fire, and other rescue services also use FM radio on special frequencies. Most rescue workers carry a radio receiver/transmitter with them to receive a call to communicate with emergency relief operations.
- FM radio has numerous advantages that makes it suitable for broadcasting crucial messages and information to masses. **First, FM is much more energy efficient than WiFi and Bluetooth. FM receiver consumes around 15 mW, while Wi-Fi and Bluetooth typically consume over 400mW and 150mW, respectively.** In addition, **since low frequency radio waves are less sensitive to the weather/terrain conditions, FM signals are less affected by these minor influences.** Finally, **FM signals penetrate obstacles more easily than Wi-Fi or GSM** since the attenuation of radio waves by obstacles increases with frequency. The aforementioned considerations suggest that FM radio broadcasting has a number of inherent advantages over the other communication systems.
(https://www.researchgate.net/publication/261380620_A_personal_emergency_communication_service_for_smartphones_using_FM_transmitters)
- **Since FM signals are broadcast from a single transmitter, it is only necessary for that single transmitter to remain functional during disasters.** In India, most FM transmitters are located inside well-protected and well-maintained facilities. FM content is produced in studios and relayed to transmitters using either STL "links" or internet broadband facilities. If, under extreme conditions, this link between studio and transmitter goes down, **it takes but a few moments to move the content generation to the transmitter site itself. Also, it is pertinent to note that, all FM broadcasters are expected to maintain emergency broadcast studios inside transmission facilities.**
- Even from a quality of content perspective, **merely sending text message to people via mobile networks was inadequate. During the Covid-19 pandemic, it was necessary to educate people about the precautions to be taken to prevent the spread of the deadly virus.** What to do if Covid symptoms emerged, who to contact in emergency, how to isolate and quarantine, where to do Covid testing etc. These were important communications that could be best communicated via an RJ talk or interview on FM radio, which became important conduits between the authorities and the people.

entertainment network (India) limited

Corporate Office: 14th Floor, Trade World, D-Wing, Kamala Mills Compound, Senapati Bapat Marg, Lower Parel (West), Mumbai – 400 013, India. Tel: 022 6753 6983.

- Unlike TV, FM radio transmission is local in nature, transmitting hyper-local information within a 72-100 kilometer radius. A disaster in one city or district in the country cannot be handled via TV, because satellite TV has a national footprint. On the other hand, FM radio is ideal for providing a minute-by-minute update on the evolving situation in the concerned city or district. Further, **Radio Jockeys (RJs) speak in local-vernacular languages and hence, can communicate with the population more effectively.**
- **The ubiquity of FM signals is another critical feature during disasters.** A listener can listen to FM radio over various devices - mobile phones, car stereos, ordinary transistors, modern smart speakers like Alexa and Google Home and even on the TV set. Even if the battery of the mobile phone dies, it is possible to listen to FM radio on other devices. This is a truly unique feature that becomes critical during disasters.
- Even the **International Telecommunications Union (UN), a body of the United Nations, has weighed in with its important advisory** on FM radio during disasters, stating –

*“ In times of emergencies and disaster, radio broadcasting, is one of the most powerful and effective way of delivering early warnings and alerting the public to save lives. Timely, relevant, and practical information to people impacted by a disaster or emergency is a vital form of humanitarian assistance. Broadcasting is particularly useful in situations where physical access is difficult and aid responders may take several days or weeks to reach affected communities. **Appropriate information and advice, delivered in a user-friendly way, can help people cope with the crisis and mitigate immediate threats to their well-being. Direct communication via radio can also help to reduce the sense of isolation and helplessness that crisis-affected communities and individuals often experience.** As the world and radio change together, ITU will continue to serve as the steward of global airwaves, ensuring we can connect to one another safely, sustainably, and innovatively for centuries to come.”*

<https://www.itu.int/hub/2021/02/celebrating-the-resilience-of-radio/#:~:text=In%20times%20of%20emergency%20and,vital%20form%20of%20humanitarian%20assistance>

4. International Scenario -:

The below mentioned instances show how many countries are now realizing the importance and utility of FM broadcast to manage critical situations and hence mandating FM reception in all mobile phones.

entertainment network (India) limited

Corporate Office: 14th Floor, Trade World, D-Wing, Kamala Mills Compound, Senapati Bapat Marg, Lower Parel (West), Mumbai – 400 013, India. Tel: 022 6753 6983.

US –

- Major US carriers now allow FM chips to be turned on. Manufacturers like Samsung, LG, HTC, and Motorola have activated FM radio on their phones.
- FM radio access is more than just a convenience or a fun perk. Devastating hurricanes and wildfires that have affected millions of Americans have shown us the vulnerabilities of mobile phone infrastructure, as well as the vital importance communications systems play in times of disaster. Considering this, Federal Communications Commission (FCC) Chairman Ajit Pai also urged all mobile manufacturers to enable FM receivers in the handsets.
- Here is another article which reiterates the same points in the context of the US: (Link: <https://www.forbes.com/sites/stevepociask/2018/04/23/smartphone-fm-radio-capabilities-enhance-public-safety-at-no-cost/?sh=435fb03773a5>) it quotes as follows:
 - " *The value of FM radio has been demonstrated again and again. When Hurricane Isaac made landfall in 2012, most of New Orleans was without power for three to five days. **Across the city, cell phone service didn't work, power outages prevented access to TV, and internet connectivity was unreliable or non-existent.** During that time, local radio stations broadcasted 24 hours a day, providing critical information and comfort to the city's residents. Without the lifeline that radio communications provided, confusion and chaos would have been greatly exacerbated.*

After hurricanes Irma and Maria left 91 percent of Puerto Ricans without cellular coverage last year, many turned to radios for emergency information.

But millions of American households do not own a battery-powered FM radio, potentially jeopardizing their safety in a crisis. Research by the Centres for Disease Control in 2012 revealed that nearly one-quarter of American households did not have a working battery-operated radio.

Luckily, most smartphones already have FM antennas pre-installed. Pew Research Center found that 84 percent of households in the U.S. had at least one smartphone in 2016 -- a proportion which has likely increased since then.

Most smartphone users can access FM radio signals by downloading a simple app; no additional equipment is needed. Unfortunately, not all smartphone manufacturers have activated the FM chips inside their phones, depriving their customers of this potentially lifesaving feature.

entertainment network (India) limited

Corporate Office: 14th Floor, Trade World, D-Wing, Kamala Mills Compound, Senapati Bapat Marg, Lower Parel (West), Mumbai – 400 013, India. Tel: 022 6753 6983.

That is why Craig Fugate, former head of the Federal Emergency Management Agency, has urged smartphone manufacturers to make these capabilities accessible to them during times of emergency. In addition, Federal Communications Commission Chairman Ajit Pai, while citing public safety benefits, has repeatedly called on the wireless industry to activate the FM chips already installed in almost all smartphones sold in the U.S. It is inexplicable why some smartphone manufacturers do not allow this FM functionality.

Enabling FM radio capabilities comes at virtually no cost, either to consumers or the manufacturing industry. Given the benefits, manufacturers who do not already make FM radio available to their customers should strongly consider doing so.

The public safety benefits are clear. When disaster strikes, the ability to access FM radio messages on a smartphone saves lives. As deadly wildfires ravaged California last year, many residents were not aware of the danger until minutes before the flames reached their homes, partly due to malfunctioning cellular alert systems. Had the warnings broadcast by FM radio stations been heard by a greater number of people, more of them would still be alive today.

Manufacturers should do all they can to make this life-saving technology even more widely available to consumers.”

Mexico -

- Mexico's Federal Telecommunications institute has approved a new rule requiring smartphone manufacturers to activate the FM chip embedded in all modern mobile devices. The move came in 2017 after months of pressure from the National Chamber of Radio and Television Industry (CIRT) and **makes Mexico the first country in the world to enact such legislation.** During its lobbying effort in Mexico, CIRT noted that in cases of emergencies or natural disasters, mobile networks may stop working altogether. Under these circumstances, FM-enabled smartphones would allow government agencies to send out alerts to citizens, according to a story from eMarketer.

(Link: https://www.insideradio.com/free/mexico-is-first-country-to-require-fm-chip-activation/article_4a6e2a4e-4cd5-11e7-a834-cbb238541a35.html)

Brazil –

- From 1 June 2021, mobile phones manufactured in the South American country must integrate FM radio, to allow those in areas not served by the internet to get information for free. The government sees this as an opportunity for those who live far from large urban centres, where the mobile network signal is weak and FM stations are well received. As many as 40 million Brazilians do not have access to the internet, but almost all of them have a mobile phone.

entertainment network (India) limited

Corporate Office: 14th Floor, Trade World, D-Wing, Kamala Mills Compound, Senapati Bapat Marg, Lower Parel (West), Mumbai – 400 013, India. Tel: 022 6753 6983.

(Link: <https://blog.radioreporter.org/brazil-fm-tuner-mandatory-on-mobile-phones>)

In summary –

From the bare perusal of aforesaid facts and practical scenarios from all over the world, it is of utmost importance that FM broadcast should be made available on all mobile phones at the earliest. Particularly in a vast country like India, with difficult terrains and numerous languages, local connect and local dissemination of critical information in quick time becomes even more important.

Q5. Stakeholders may also provide their comments on any other issue relevant to the present consultation.

ENIL Response:

In addition to the above listed issues, we would also like to humbly request that due consideration may be given to following issues:

1. Relief package for FM Radio industry:

As mentioned in our response to Q2. Above, in addition to extension of 3 years to the current license period, We request to help FM Radio Sector survive, a financial package to cover huge losses during Covid period be given as follows:

- a. Two year waiver of License Fees for coming financial years in addition the extension of license period itself by 3 years as recommended earlier hereinabove..
- b. Waiver of all interest levied on late payments of license fee due to the Covid pandemic.

2. City-wise cap on channel ownership:

We welcome the step taken by the Government to introduce certain reforms to the Phase III vide the order released in October 2022. However, currently as per the Phase III policy guidelines -no entity can hold more than 40% of the total channels in a city, subject to a minimum of three different operators in the city. Unless this restriction is at least raised to 50%, the liberty of corporate re-structuring may not be beneficial. Also currently, while calculating the percentage of ownership, if the figure is a decimal, it is rounded off downwards to the nearest whole number (e.g., if the number is 1.2 or even 1.7, it is rounded off to 1). This should be ideally rounded off upwards to the next whole number (i.e. 2 in the above example).

entertainment network (India) limited

Corporate Office: 14th Floor, Trade World, D-Wing, Kamala Mills Compound, Senapati Bapat Marg, Lower Parel (West), Mumbai – 400 013, India. Tel: 022 6753 6983.

3. HD Radio – at no additional cost:

Many countries have already adopted the HD radio technology for FM radio broadcast, and we believe it is high time we adopt the same too. This will help in improving listener experience due to better sound quality.

We suggest that current policy should be amended to permit HD radio channels at no additional cost to the existing permission holders. This will boost the health of the ailing industry by increasing opportunities by way of higher ad-inventory, ability to start dedicated channels for news/current affairs (if permitted as be suggestions above.) and consequently benefit the government by way of higher license fee once the revenues of the industry are up. Hence it will be a win-win for all.

4. Permission for slump sale:

We all are aware of the ground realities and the time taken for a loss-making organization to alienate its loss making FM radio station business into a separate entity, under the re-organization permission now available to them. This process can therefore be of very less assistance practically considering the procedural challenges in de-merger and take over of the frequency by other organization. To counter this, we suggest that ‘slump sale’, which is a well-recognized concept under the Income Tax laws, should be permitted for sale/takeover of FM frequencies. This can help many small broadcasters and even big companies to re-organize their business in quick time and help them to remain profitable.

5. Change in Auction Methodology.

We suggest that there should be a change in auction methodology in future auctions for new frequencies. If we see the historical data since Phase I auctions, as succinctly captured in the CP, the figures of frequencies auctioned and operationalized is not encouraging.

- **During the Phase-I auction, a total of 108 channels in 40 cities were offered** out of which bid amount was paid only for 37 channels and only 22 channels became operational, of which one channel had closed down subsequently.

The private FM Radio industry under Phase-I reported losses largely because of the high bid amount at the time of auction.

entertainment network (India) limited

Corporate Office: 14th Floor, Trade World, D-Wing, Kamala Mills Compound, Senapati Bapat Marg, Lower Parel (West), Mumbai – 400 013, India. Tel: 022 6753 6983.

- During Phase II auctions - **A total of 337 channels were put on auction** across 91 cities. Successful bids were received for 284 channels. After scrutiny, permission was given for operationalization of 245 channels covering 87 cities. Out of these 245 channels, **222 channels became operational (+21 channels which migrated from Phase I).**
- During Phase III - **135 channels in 69 existing cities were put up for auction in Batch 1 of the auctions.** 96 out of 135 private FM Radio channels in 55 cities were successfully auctioned.
- Subsequently, MIB commenced the auction of the second batch of Private FM Radio where **266 channels in 92 cities were offered including 227 channels in 69 new cities and 39 channels in 23 existing cities. Only 66 channels in 48 cities were successfully bid** in e-auction of second batch of FM Radio.
- From the above statistics its evident that the success rate of auctions has been always low, primarily due to high bids and high license fees charges by the government.
- The chances of any further auctions being successful are completely bleak considering the current state and struggles faced by the existing players, which are fighting for survival.
- Hence it is necessary to drastically modify the future auctions, by incentivizing existing and new players with waiver of license fees completely. We believe that this will be the only factor that can incentivize existing and new players to bid for additional/new frequencies. The result can be successful allocations, higher value bids collection for the government and thus upfront collection of monies for the government, even the interest on which can be more than the license fee that may be paid by the players over the term of the new licenses.

We once again thank you for the opportunity provided by your good offices to put forth our views and suggestions on the subject and hope that they shall be given due consideration.

Sincerely,

For Entertainment Network (India) Limited



Prashant Ramdas

Vice President & Head-Legal