



Federation of Indian Chambers of Commerce & Industry
Response to TRAI's Consultation paper on

"EASE OF DOING BUSINESS IN BROADCASTING SECTOR"

Issued on
7/31/2017



Issues related to Satellite TV Channels

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| <p>Q5.</p> | <p>Is present framework of seeking permission for temporary up linking of live coverage of events of national importance 25 including sports events is complicated and restrictive? If yes, what changes do you suggest and why? Give your suggestions with justification.</p> |
| <p>Response:</p> | <p>We recommend that the present framework needs simplification and changes.</p> <ul style="list-style-type: none"> ▪ <u>The Need for ‘National Media Policy’</u> <ul style="list-style-type: none"> • The Indian Television market is second largest in the world with Rs. 247 million television households as per 2011 census. Till 1992, Indian television majorly comprised of Doordarshan terrestrial television. With the advent of Cable television in 1992, and the availability of private TV channels, the industry witnessed a rapid growth in the television markets. • Subsequently with the licensing of DTH services in 2003, the Pay TV industry rapidly transformed with an estimated 70 Million households opting for free or pays DTH services. • Presently the Television industry accounts for over 45% of the revenues of the Media and Entertainment (M&E) industry. It is expected that this industry will expand to the value Rs. 1,165.6 Billion by 2021 growing at a CAGR of 14.7% as per FICCI KPMG Indian Media Entertainment Report 2017. |

The Indian M&E industry: Size

| Overall industry size (INR billion) (For calendar years) | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | Growth in 2016 over 2015 |
|---|--------------|--------------|--------------|---------------|---------------|---------------|--------------------------|
| TV | 329.0 | 370.1 | 417.2 | 474.9 | 542.2 | 588.3 | 8.5% |
| Print | 208.8 | 224.1 | 243.2 | 263.4 | 283.4 | 303.3 | 7.0% |
| Films | 92.9 | 112.4 | 125.3 | 126.4 | 138.2 | 142.3 | 3.0% |
| Digital advertising | 15.4 | 21.7 | 30.1 | 43.5 | 60.1 | 76.9 | 28.0% |
| Animation and VFX | 31.0 | 35.3 | 39.7 | 44.9 | 51.1 | 59.5 | 16.4% |
| Gaming | 13.0 | 15.3 | 19.2 | 23.5 | 26.5 | 30.8 | 16.2% |
| OOH | 17.8 | 18.2 | 19.3 | 22.0 | 24.4 | 26.1 | 7.0% |
| Radio | 11.5 | 12.7 | 14.6 | 17.2 | 19.8 | 22.7 | 14.6% |
| Music | 9.0 | 10.6 | 9.6 | 9.8 | 10.8 | 12.2 | 13.0% |
| Total | 728.4 | 821.0 | 918.1 | 1025.5 | 1156.5 | 1262.1 | 9.1% |

Source: KPMG in India's analysis and estimates, 2016-17

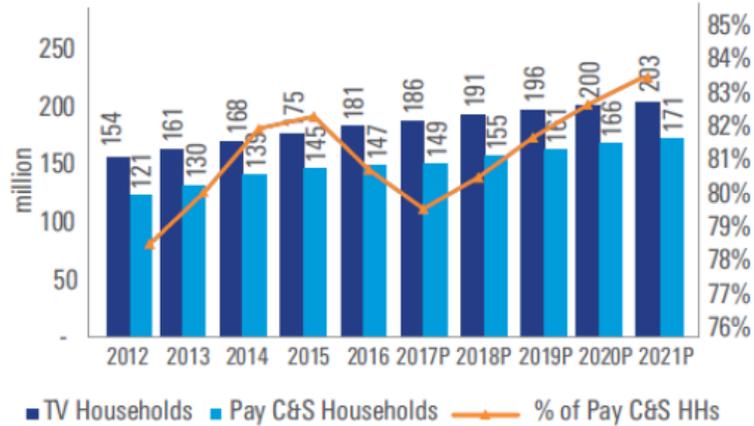
The Indian M&E industry: Projections

| Overall industry size (INR billion) (For calendar years) | 2016 | 2017P | 2018P | 2019P | 2020P | 2021P | CAGR (2016-2021P) |
|---|---------------|---------------|---------------|---------------|---------------|---------------|-------------------|
| TV | 588.3 | 651.0 | 750.9 | 876.8 | 1,014.5 | 1165.6 | 14.7% |
| Print | 303.3 | 325.0 | 350.4 | 378.5 | 405.6 | 431.1 | 7.3% |
| Films | 142.3 | 155.0 | 166.0 | 178.2 | 191.6 | 206.6 | 7.7% |
| Digital advertising | 76.9 | 101.5 | 134.0 | 174.3 | 226.5 | 294.5 | 30.8% |
| Animation and VFX | 59.5 | 69.5 | 81.2 | 95.5 | 111.9 | 131.7 | 17.2% |
| Gaming | 30.8 | 37.2 | 44.2 | 52.2 | 60.7 | 71.0 | 18.2% |
| OOH | 26.1 | 29.0 | 32.5 | 36.4 | 40.8 | 45.7 | 11.8% |
| Radio | 22.7 | 26.4 | 30.7 | 35.9 | 41.5 | 47.8 | 16.1% |
| Music | 12.2 | 14.0 | 16.3 | 19.0 | 22.1 | 25.4 | 15.8% |
| Total | 1262.1 | 1408.7 | 1606.2 | 1846.7 | 2115.2 | 2419.4 | 13.9% |

- As per our FICCI-KPMG Report 2017: Television is expected to grow at a CAGR of 14.7 per cent over the next five years as both advertisement and subscription revenues are projected to exhibit strong growth at 14.4 per cent and 14.8 per cent, respectively. The long term forecast for the television segment remains robust due to strong economic fundamentals

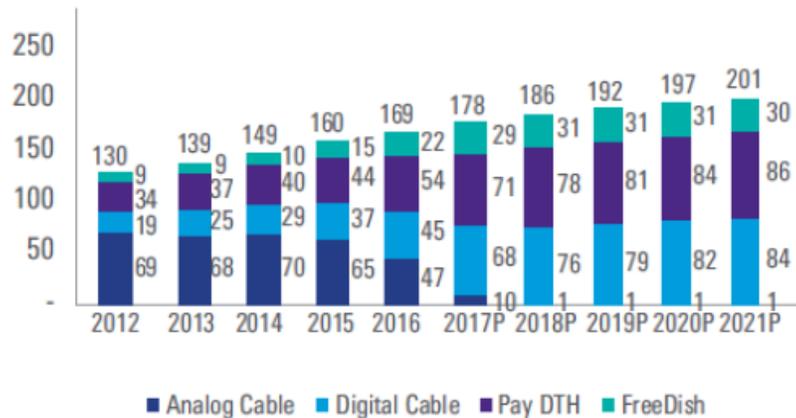
and rising domestic consumption coupled with the delayed, but inevitable, completion of digitization.

TV households and Pay C&S penetration



Source: KPMG in India's analysis 2016 based on data collected from industry discussions

C&S subscriber split by distribution platform (million)



- Given the growth potential and prospects in media sector, there is a strong need for our country to have a vision document in the form of National Media Policy.



Once created, it will aid as a one stop reference document for all the entities interested in either setting up a new organization or scaling up their existing businesses.

- As a matter of illustration, telecom sector has a National Telecom Policy in place since 1999 which has gone through two to three rounds of revision to match the growth and dynamics of the sector. The tremendous growth achieved by Telecom sector in India would not have been possible without a well-defined Telecom Policy.
- A policy document not only specifies the growth targets but also outlines the means and measures required to achieve the same. We need similar vision document in broadcasting sector also to ensure the orderly growth and development of this sector.
- Thus it is recommended that a policy document must be formulated containing a detailed Broadcasting and Content Distribution policy framework for at least next five years so that the requisite resources could be mobilized and channelized towards achievement of the laid down targets for the Broadcasting sector.

▪ **Changes required in the UPLINKING AND DOWNLINKING guidelines**

APPOINTMENT OF DIRECTORS

Uplinking Guidelines

5.10. It will be obligatory on the part of the company to take prior permission from the Ministry of Information & Broadcasting before effecting any change in the CEO/ Board of Directors.



Downlinking Guidelines

1.6. The applicant company must provide names and details of all the Directors of the Company and key executives such as Chairperson, MD, COO, CEO, CTO, CFO and Head of Marketing, etc. to get their national security clearance.

5.11 The applicant company shall give intimation to Ministry of Information and Broadcasting regarding change in the directorship, key executives or foreign direct investment in the company, within 15 days of such a change taking place. It shall also obtain security clearance for such changes in its directors and key executives.

Challenges faced by the Industry

- The above mentioned stipulation of prior permission as set out in Clause 5.10 of the Uplinking Guidelines is creating practical problems and difficulties. It may be appreciated that it is not possible to wait till the permission is granted by the Ministry of Information & Broadcasting (“Ministry”) as the security clearance of the proposed Director takes considerable time, sometimes stretching up to even 9-12 months.
- It is pertinent to note that as per The Companies Act, 2013 and the requirements of the listing arrangements with Stock Exchanges, a public listed company is required to appoint certain number of Directors including Independent Directors, nominees of Financial Institutions, Women Director(s) on the Board which are required to be intimated/communicated to the Stock exchange as well by the listed companies. Further, there are mandatory changes in directorship prescribed under SEBI Regulations/Companies Act which are to be complied in a timely manner by the listed companies. Moreover, in case of listed entities lot of sensitivities are involved around Board appointments and/or any

change therein as these appointments/changes impact the market price of the shares of the company.

- The requirement of appointment of Independent Directors is there even in the case of an unlisted public company. In the event an Independent Director resigns, such a company would have to wait till approval of the Ministry is received prior to appointment of another Independent Director and unable to comply with the provisions of The Companies Act, 2013. In the case of a private company with two directors (minimum requirement under the Companies Act, 2013), if one of them resigns such company's ability to appoint another director to replace the resigning director is restrained until receipt of the approval from the Ministry for the new director.
- The purpose of furnishing the details of Board of Directors and/or any change therein is to obtain security clearance. In fact, the intent of the Guidelines is to have only "intimation of change" so that the process of security clearance for such changes in Directors and Key Executives could be initiated by the Ministry. It is for this reason that the Downlinking Guidelines vide Clause 5.11 provide only for "intimation" rather than "prior approval/permission".

Recommendation

To address the challenges as set out herein above, it is recommended that the following process be considered by the MIB with respect to security clearance of the Directors:

- An intimation to be sent by the Company to the Ministry along with details of the new Director appointed on the Board of the Company within seven (7) days from the date of appointment;
- Unless anything to the contrary is received by the Company from the Ministry, the Director's appointment shall be deemed as approved by the Ministry;



- Upon receipt of the security clearance from the Ministry of Home Affairs (MHA), the Ministry shall communicate the same to the Company;
- The validity of security clearance of the newly appointed Director(s) should be co-terminus with the validity of the security clearance of the permission holder/Company;
- Such Director(s) may also be appointed as Director(s) on the Board of any other Group Company during the validity period without having to seek any fresh security clearance;
- There shall not be any requirement for security clearance of the Independent Directors and/or the Key Executives of the Company, provided however an intimation may be filed by the company with the Ministry in this regard within seven (7) days from the date of the appointment of such Independent Director / Key Executive(s).

The aforesaid mechanism is akin to the practice already adopted by the Ministry on issuance of provisional licenses to the Multi System Operators (MSOs) to enable them to commence their operations in the Digital Addressable System (DAS).

The recommended process shall ensure that the existing Broadcasting Entities as also the Companies seeking new licenses/permission from the Ministry for Up-linking/Downlinking Television Channels are not put to any hardships relating to appointment of Directors and will further enable the objective of achieving Ease of Doing Business in India.



▪ **Security Clearance of the Companies**

Uplinking Guidelines

1.2 On the basis of information furnished in the application form, if the applicant is found eligible, its application will be sent for security clearance to the Ministry of Home Affairs and for clearance of satellite use to the Department of Space (wherever required).

1.3 As soon as these clearances are received, the applicant would be asked to furnish a demand draft for an amount equal to the permission fee and Performance Bank Guarantee as applicable, payable at New Delhi, in favour of Pay & Accounts Officer, Ministry of Information & Broadcasting, Shastri Bhawan, New Delhi. Further, the applicant company in respect of Para 1, 2 or 3 above would be required to sign an agreement titled as “Grant of Permission Agreement”, in the format “**Form 2**”, which is being prescribed separately.

Downlinking Guidelines

1.4 The applicant company shall also submit full details of each channel being/proposed to be downlinked along with all other documents as prescribed in the guidelines.

1.5 After scrutiny of the application if the applicant company is found eligible, the same will be sent for security clearance to the Ministry of Home Affairs. In the meanwhile, the Ministry of Information and Broadcasting will evaluate the suitability of the proposed channel for downlinking into India for public viewing.

1.6 In the event of the applicant company and the proposed channel being found suitable, the Ministry



of Information and Broadcasting will register the channel and the applicant company to enter into a grant of permission agreement with the Ministry of Information and Broadcasting, Government of India

Challenges faced by the Industry

- At the outset, taking the 'Ease of Doing Business' initiative forward, the Government has liberalized the foreign investment in broadcasting business pursuant to the recent amendments in the FDI Policy whereby 100% foreign direct investment has been permitted under automatic route for Non-News channels.
- The intent and objective for investment by the new companies in Broadcasting however collapses as the companies would be unable to commence their operations for several months till uplink/downlink permission is granted, which is further dependent on Security Clearance being issued by the Ministry of Home Affairs (MHA).
- Considering the aforesaid, the stipulation of Security Clearance of the applicant companies in the Guidelines is a needless impediment for a new company to commence operations/broadcast of Non-News channels.

Recommendation

- As per the Office Memorandum dated 25.06.2014, MIB has clarified that no fresh security clearance would be sought in case security cleared company (with security cleared directors) seeks permission for additional television channel(s) within the validity period of security clearance.
- We recommend that a similar and simpler process may be considered with respect to security clearance of new *company* (ies) seeking permission for uplinking/downlinking of television channel which

would enable introduction of new entrants in the Broadcasting industry.

- Upon receipt of an Application from a Company, the same may be sent for security clearance to the Ministry of Home Affairs (MHA), except when such an application is filed by a Company which holds a valid uplink/downlink license issued by the Ministry.
- Unless anything to the contrary is received by the Company from the Ministry, the Company should be issued the uplink/downlink permission;
- Upon receipt of the security clearance from the MHA, the Ministry shall communicate the same to the Company.
- The validity of security clearance of the Company should be co-terminus with the validity of the uplink/downlink permission granted by the Ministry during which the Company should be allowed to launch and/or acquire any number of additional TV channels without the requirement of any further security clearance.
- A time limit of 6-8 weeks is to be stipulated for MHA to submit a report on the security clearance sought by MIB.

▪ **Change in the Name of the Channel and/or Logo of the channel**

There are no provisions existing in the Uplinking and/or Downlinking Guidelines regarding change in name and/or logo of the permitted television channels. An approval is however sought before giving effect to any change to the approved name/logo of the channel as per the practice followed by the Industry.

Unlike the New Channel approval wherein the other Ministries are also involved viz. MHA for security clearance and



Department of Revenue for agreement vetting etc., the approval on modification/change in the name and/or logo of the channel is to be granted by the Ministry of Information & Broadcasting only.

Challenges faced by the Industry

- The satellite TV broadcast sector being dynamic in nature requires innovation and change in business strategy from time to time, so as to keep abreast with the changing consumer interests and tastes. Therefore, the broadcasters need to bring in new content for the consumers. This leads to change in the name and logo of their channels.
- While the Ministry grants the approval for such modifications/changes to the name/logo, the approval erroneously mandates that the company would be liable to stop telecast of new logo forthwith if the same is disallowed by Trade Marks Authority of India.
- It is our submission that the Office of the Registrar of Trademarks is not the final adjudicatory authority and such a mandate on non-use of a mark can only be effectuated by a final order of a Court of Law.
- Moreover, if the name and/or logo conflicts with that of another channel, that is an operational issue for the two channels to sort out, just as in the case of two companies using similar names or selling products with similar names.

Recommendation

Once a channel is given an uplink and/or downlink permission, we are of the view that there should not be a need for further approvals or permissions in case there is any modification/change to the name and/or logo change of such channel for operational/other reasons. Having said this, we do appreciate that other departments like DOS, DOT/WPC and NOCC may need to be informed on such change of name.



In light of this background, we suggest the following:

- A prior intimation may be filed with the Ministry for any major change in name and/or logo of the permitted channel along with appropriate details/documents for records (with a copy to WPC / NOCC);
- The entities should further be allowed to do minor variations to the font/logo of the permitted channel with an intimation to the Ministry for their records;
- This process of mere intimation should be for channels too as it is already adopted for DTH and HITS already.
- The requirement of trademark registration of logo of the TV channel should also be done away with.

▪ **Temporary Uplinking Permission**

Uplinking Guidelines

“6.4 All Foreign channels, permitted entertainment channels uplinked from India and companies/individuals not covered in 6.1, 6.2 and 6.3 as above will be required to seek temporary uplinking permission for using SNG/DSNG for any live coverage/footage collection and transmission on case to case basis.”

For any live telecast of an event on a non-news and current affairs channel, temporary uplinking permission is required to be obtained from the MIB. Along with the application for seeking such permission, the applicant broadcasting entity which downlinks the uplinked feed, is required to submit bandwidth arrangement as well as teleport permission. After the receipt of MIB permission, the applicant broadcasting entity is also required to obtain the permission from



NOCC & WPC.

Challenges faced by the Industry

- There are various live events which require live telecast (for e.g. music concerts, sports {for e.g. cricket/hockey/kabaddi}, award functions) so as to enable the Indian viewers to get the benefit of live telecast of events. Some of these events are also required to be mandatorily made available to Prasar Bharti under the provisions of the Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharti) Act, 2007. The rights to these events at times are procured only a few days before the scheduled live telecast of the event.
- Invariably, the existing procedure creates significant procedural delays in being able to procure the temporary uplink permission in an efficient and time bound manner. Moreover, at times due to uncertainty on receipt of permissions in a timely manner constrains the monetization of the event as it creates uncertainty with advertisers (including for events of national importance to be aired on Prasar Bharti's terrestrial and DTH networks). At times the broadcasters are constrained to cancel the live telecast of the proposed event which results in monetary and reputational loss.

Recommendation

- In lieu of the fact that the broadcasting entities are bound to comply with the provisions of the Programme Code and Advertising Code, hence any event/content proposed to be aired live on the channel would also need to follow the same principles, thus ensuring any content being aired is not in violation of the applicable laws.
- Further, the teleport/DSNG Vans used for uplinking of the live events from India are anyways cleared by the



Ministry for carrying out live uplink for news channels.

- In the case of live uplinking of foreign events, the feed of such events is uplinked from foreign *satellites which are* downlinked to the permitted teleport at India before the same is telecast live on the channel, which also has to be in compliance of the Programme Code.
- In light of the aforesaid, there should not be any requirement for prior approval for uplinking of the live events.
- An intimation may however be filed with the Ministry along with appropriate details/documents for uplinking of the live event at least 7 days prior to the proposed airing of such live event, provided that in the case of events to which rights have been obtained within this 7 day period, as soon as is reasonably practicable.
- Further clear-cut guidelines should be issued by the Ministry including the list of documents/enclosures required to be submitted by the entities.

▪ **Transfer of Permission of Television Channels**

Uplinking Guidelines:

11.1. The permission holder shall not transfer the permission without prior approval of the Ministry of Information and Broadcasting. On a written request from the permission holder, the Ministry shall allow transfer of permission in case of merger/demerger/ amalgamation, or from one Group Company to another provided that such transfer is in accordance with the provisions of the Companies Act, and further subject to the fulfillment of following conditions:

(i) The new entities should be eligible as per the

eligibility criteria including the net worth and should be security cleared.

(ii) The new entities should undertake to comply with all the terms and conditions of permission granted.

Downlinking Guidelines

10.1. The permission holder shall not transfer the permission without prior approval of the Ministry of Information and Broadcasting.

10.2. In case of transfer of permission of a Satellite Television Channel uplinked from India from one company to another as per the provisions of Uplinking Guidelines, the registration of the channel under the downlinking Guidelines shall also stand transferred to the new company.

10.3. In case of companies permitted to downlink channels from other countries, on a written request from the permission holder, the Ministry shall allow transfer of permission in case of merger/demerger/ amalgamation, or from one Group Company to another provided that such transfer is in accordance with the provisions of the Companies Act, and further subject to the fulfillment of following conditions:

(i) The new entities should be eligible as per the eligibility criteria including the net worth and should be security cleared.

(ii) The new entities should undertake to comply with all the terms and conditions of permission granted.

Challenges faced by the Industry

- *The present era is that of consolidation and conversion. Transfer of business or undertaking through slump sale, business transfer*



agreements, etc. are recognized methods of transfer in accordance with applicable law.

- The existing provisions do not recognize such methods of transfer. This Policy is strongly linked to 'Ease of Doing Business'. Therefore, all the relevant modes of business transfer as provided under the Companies Law need to be recognized under the Policy.
- Further, it should be clarified that no prior approval is required in case of merger/demerger/amalgamation/other accepted methods of transfer of business or undertaking.
- In case of merger/demerger/amalgamation, the permission should be transferred in favour of the Transferee Company so long as it is approved by the National Company Law Tribunal. A copy of the order of NCLT should be filed with the Ministry along with relevant documents.
- In case of transfer of business/undertaking through slump sale, business transfer agreements etc. the permission should be transferred in favour of the Transferee Company upon the parties filing the said agreement/arrangement with the Ministry.
- In case the transfer within the Group Companies. Since, the expression "Group Company" has not been defined in the Guidelines, we have a proposed a definition for the same.

Recommendation

Considering the aforesaid submissions, the provisions of the Uplinking and Downlinking Guidelines relating to the transfer of permission need to be revised and substituted as below:

Transfer of Permission of Television Channels



On a written request from the permission holder, the Ministry shall allow transfer of permission:

- in case of merger/demerger/ amalgamation which has been duly approved by the Court/Tribunal in accordance with the provisions of the Companies Act, 2013 provided that the permission holder files a copy of the order of the Court/Tribunal sanctioning the said scheme;
- in case of transfer of business or undertaking such as through slump sale, business transfer agreements or by such other means in accordance with the provisions of the applicable law, provided that the permission holder file a copy of the agreement/arrangement executed between the permission holder and the transferee company;
- in case of transfer within Group Company provided that the permission holder files an affidavit undertaking stating that the transfer is within the Group Companies.

“Group Company” in relation to another company means a company, which is under the same management and/or promoters or in which that other company has significant influence directly or indirectly and shall also include an associate company, subsidiary company, holding company or a joint venture company.

Explanation: For the purpose of this clause significant influence means control of at least 20% of total share capital or of business decision by way of agreement or otherwise. It is clarified that the transfer of permissions is subject to the fulfillment of following conditions:

- The new entities should be eligible as per the



eligibility criteria including the net worth and should be security cleared.

- The new entities should undertake to comply with all the terms and conditions of permission granted.

Unless anything to the contrary is notified by the Ministry, such new entity/acquiring company shall be deemed to be security cleared by the Ministry. The validity of the security clearance issued by the Ministry in favour of such Company shall be co-terminus with the validity of the uplink/downlink license issued by the Hon'ble Ministry.

For avoidance of any doubt, it is hereby clarified that in the event the new entity/acquiring company is an existing broadcasting entity holding a valid uplink and/or downlink permission issued by the Ministry, such an entity shall be deemed to be security cleared so far the transfer application has been filed by such company within its validity of the security clearance.”

▪ **Approval from Department of Space (dos)**

Uplinking Guidelines

9.2 *On the basis of information furnished in the application form, if the applicant is found eligible, its application will be sent for security clearance to the Ministry of Home Affairs and for clearance of satellite use to the Department of Space (wherever required).*

Challenges faced by the Industry

- Under the process stipulated for an uplink application, the applicant is required to enclose an uplink satellite capacity agreement with the foreign satellite operator. Once this agreement is signed, the charges for such capacity commence immediately, which are required to



be paid to the foreign satellite operator. However, the MIB permissions a take long time, sometimes more than 12 months due to various reasons including security, channel and content approval, Directors approval, DoS referrals, WPC approval, teleport approval etc.

This results in the following:

- (a) Charges are also required to be paid to the satellite operator, for the period for which the channel agreement has been signed, but the channel is not operational.;
- (b) Such charges can only be paid via RBI approval, which again needs MIB approval. Hence, the stipulated process at present is logically and practically incorrect, apart from causing huge wasteful expenditure of transponder charges for the applicant.
- We appreciate the recent notification dated February 22, 2017 issued by the Ministry of Information & Broadcasting in respect of Clause 9.2 of the Uplinking Guidelines waiving the condition to seek DOS approval. However, the said sub-clause 9.2 is under Clause 9 which relates to “Process for Obtaining Permission for new channels”. It is thus not clear if the notification issued by the MIB would also cover the applications filed for change in teleport/satellite by the existing channels/permission holders.

Recommendation

- We would sincerely appreciate if MIB could clarify that the said exemption on DOS approval shall also be applicable to the existing permission holders who seek to move the permitted channel(s) to an approved teleport.

- Similarly, foreign satellites are currently permitted to provide services only after the same have been coordinated with ISRO. MIB could thus obtain list of such Foreign Satellites from DoS which are coordinated with ISRO, and the list of such Foreign Satellites could be made available on MIB’s website. Broadcasters could then be aware on the list of permitted Foreign Satellites, and avail services only from such permitted Foreign Satellites for uplinking of signals. The specific frequency on which the channel is to be uplinked is in any event filed and approved by the WPC. This could facilitate MIB’s process for approving new channels or change of satellite (in case of permitted channels), wherein they could refer to such list of Foreign Satellites rather than sending the file to DOS on each occasion.

▪ **Approval from Department of Revenue (dor)**

Certain broadcasters own the TV channels and downlink them in India. Uplinking of channels happen from international regions, for e.g. Singapore. Paragraph No. 1.3 and 1.4 of the Downlinking Guidelines which relates to the agency arrangement; do not apply to group of broadcasters. Even then, every time an application for a new channel is submitted, MIB sends intimation to DoR to examine the applicability of these guidelines in each case. Broadcasters have requested many times to MIB to not send its cases to the DoR as the same was not applicable. However, this practice continues, delaying the process.

It is submitted that the applications for new channels should be examined at the Ministry and should be sent to the DoR only if Guideline Nos. 1.3 and 1.4 are applicable in any particular case.

▪ **Simplification of policy framework through “Single Window” system**

The Ministry of Information and Broadcasting (“MIB”) already has a “single window” system namely “Broadcast Sewa” which allows the applicant to submit the application via a single

window. However, approvals from other Ministries and departments like Ministry of Home Affairs (“MHA”), Department of Space (“DoS”), Ministry of Corporate Affairs (“MCA”), Ministry of Finance (“MoF”), Wireless Planning Commission (“WPC”) and National Operations and Control (“NOCC”) are not included in this single window system. Having a “single window” system will allow speedy and effective application process for all filings. This can be done by filing applications online at MIB and other Ministries and departments can give their comments and approval online. To avoid delays in approval from multiple ministries, there has to be specific time window to clear the applications so as to enable the satellite operators and the business to plan proper business planning well within timelines. This will greatly aid in improving the ease of doing business for the broadcast industry.

- **Change in policy framework based on new technologies and innovation**

It has been previously stated on record by TRAI that the perception of the broadcast industry has changed and matured over the years. The consumers now have various modes of accessing broadcast TV content due to advent of new technologies and use of latest techniques by the broadcast industry. It is therefore suggested that the policy framework should encourage adoption of new technologies as well as removal of seeking permission for the slightest of modification or innovation.

- **Change in language and TV format**

A mere intimation for change in language of a TV channel should be given from the broadcaster to MIB. The content, whether it be in any language, would already comply with the Program Code. When the content of the TV channel, remains the same, the broadcaster may be allowed to broadcast different variants of the same TV channel in SD, HD, 4K, etc. formats but the broadcaster can pay separate license fees for each of these formats.



- **Simplification of Annual Renewal Process**

To improve the ease of doing business in the broadcast sector, the annual renewal process of satellite TV channels needs to be simplified. It is suggested that the annual renewal fee for ten years shall be payable as one-time fee. Further, new provisions to the effect can be incorporated that by giving prior notice, the permission granted to broadcasters can be withdrawn even when the broadcaster has permission for a longer period.

- **Live coverage of events of national importance including sports events**

Sports broadcast is all about making live sports events available to the consumers. Sports channels are “non- news and current affairs” channels under the ambit of licensing guidelines of MIB and have to take temporary permission for live uplink. This is a very cumbersome process for temporary uplink of sports events. It is suggested that sports broadcasters should be allowed to self-declare that they shall be broadcasting sports live events and no news or news related content on this live feed. They should be allowed to merely intimidate and get approval of MIB within a specific time window. They should be allowed to share only the broad details of the sports events including name of team, tournament, venue and start and end date. The sports broadcasters should be permitted to take one-time permission for temporary uplinking of sports events for entire calendar year, which shall support business needs and consumer experience.



Issues related to DTH/Teleports/HITS

| | |
|-------------------|---|
| <p>Q6.</p> | <p>Do you feel the need to simplify policy framework for seeking permission/license for starting and running of following services– (i) Teleport services (ii) 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.</p> |
| <p>Response:</p> | <p>The issues affecting the DTH/Teleports/HITS Sector is as follows:</p> <ul style="list-style-type: none"> ▪ <u>Simplification of process regarding permission/license for starting and running Teleport services</u> <p>There is a need to simplify the process as well as make it time bound for teleport services so as to improve the ease of doing business in the broadcast sector. As on date, for a teleport to begin its operation, it has to go through a cumbersome process to apply to various ministries/departments. An online “single window” system should be created for the teleport applicants as well.</p> <ul style="list-style-type: none"> ▪ <u>WPC permission</u> <p>Currently, Teleports are given one year WPC permission with an annual renewal process. Due to the delay in WPC permission, it delays the permission for foreign exchange remittance, which further impacts the compliance of contractual obligations with the satellite service provider. WPC permission should also be given for 10 years at one time and a compliance report can be submitted to WPC and MIB on annual basis. A mere intimation should be given to WPC and NOCC when additional channels are added by the same applicant on the same transponder and frequency, provided WPC and NOCC permissions have been given for a transponder on a certain frequency for a channel already.</p> |



- **Open Sky Policy**

An “open sky” policy for DTH is the need of the hour and will provide vast value added services and immersive interactive content to the consumers. DTH operators should be allowed to hire Ku band transponders from foreign satellite providers directly. The Ku Band downlink should be allowed only if an uplink license from India is also obtained. This will allow DTH operators to provide all channels to the consumers including the new ones on board.



Issues related to Private FM Radio/ Community radio

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| <p>Q11.</p> | <p>What are the issues in the extant policy guidelines that are affecting the ease of doing business in FM sector? What changes and modifications are required to address these issues? Give your comments with justification.</p> |
| <p>Response:</p> | <p>The issues affecting the FM Radio Broadcasting Sector is as follows:</p> <ul style="list-style-type: none"> ▪ <u>Minimum Annual License Fee Payable by FM Broadcasters who Migrated from Phase-II to Phase-III in 2015</u> <p>Every broadcaster who migrated from Phase-II to Phase-III is compelled to pay annual license fee which is calculated as the higher of</p> <ol style="list-style-type: none"> a) 2.5% of the One Time Entry Fee (OTEF) determined in the city through fresh bidding b) 4% of the gross revenues of the broadcaster in that city. <p>As a result of this formula, most broadcasters are falling under point a). The problem is that point a) was set by only fresh bidders, but the impact is on all incumbent broadcasters who did not bid also. As an example, in the city of Delhi, one sole bidder/winner paid Rs 168 crores for the single frequency that was put on auction. As per formula a), the annual license fee comes to approx. Rs 4.2 crores. All broadcasters are compelled to pay a minimum of Rs 4.2 crores. This is too high. As a result of this, broadcasters are suffering financially, and are responding by cutting jobs, reducing marketing investments, etc. This is a huge point that broadcasters consider to be making it difficult to do business. Instead, point a) should be based on 2.5% of the migration fee paid by all broadcasters who migrated from Phase-2 to Phase-3. The Union Government could resolve this issue by changing the formula and making it more logical.</p> <ul style="list-style-type: none"> ▪ <u>Very high Reserve Fees are making auctions to fail</u> <p>In batch-2 auctions of Phase-3, only 66 of the 266 frequencies put on auction were successfully bid out. The rest were all rejected by the bidders. As a result, expansion of FM radio has stalled. We recommend that this should be amended before subsequent rounds</p> |



of auctions. This will ease business in a big way.

▪ **Issues with Radio Policy**

Phase-III policy disallows private broadcasters from airing news and current affairs programs, unless they are procured from Prasar Bharati. The government states that it is incapable of monitoring the news content of radio broadcasters. All other media are allowed to air news and current affairs programs. Only radio is singled out for this policy. Radio broadcasters have paid their entire OTEF in advance to the government. They have signed an agreement with the government (called Grant of Permission Agreement – GOPA) which compels them to strictly follow AIR’s program code.

This aside there is several other problems with the policy. Resolving these policy issues will help the government itself by helping auction more frequencies and launching more services in more cities around the country. It will also support ease of doing business in the industry.

▪ **Providing a one-time WPC (Wireless Planning & Coordination) license versus seeking an annual renewal from WPC Wing of the Ministry of Communications**

▪ **Offset of Union Government Dues with Union Government Receivables**

Presently, there is no interest paid on overdue payments of Department of Audio Visual Publicity (DAVP) and the National Film Development Corporation (NFDC) to the FM Radio Broadcasters. However, the Union Government levies heavy payment of interest on overdue payments of annual license fees of FM Radio Broadcasters. It is recommended to permit an offset of all Central Government dues against the Minimum Annual License Fees payable to the Union Government, as both DAVP and the collection of annual license fee is administered by the same Ministry of Information & Broadcasting.



- **Rein In the Anti-Competitive Nature of Prasar Bharati**

Competition Commission of India (CCI) has made a prima-facie observation that the Prasar Bharati is in the dominant position as far as providing infrastructure to FM broadcasters is concerned. FM Radio Broadcasters have also raised issues of high cost levied by Prasar Bharati for transmission infrastructure which may not be in line recommendations of the Ministry of Finance issued on August 2015.



Issues related to broadcasting frequency clearances

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| 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? |
| Response: | <p>The entire process of obtaining permissions from WPC and NOCC needs restructuring. There is a delay in obtaining approvals from WPC and NOCC due to various factors, namely because of payment of bandwidth allocation charges and monitoring charges separately and adoption of six monthly window for assignment of broadcast frequencies.</p> <p>It is suggested that a mere intimation should be given to the WPC and NOCC for any additional channels. The process of filing a fresh application for seeking permission from WPC and NOCC for any additional channel by the same applicant on the same transponder and frequency should be done away with, if permission has been granted for a transponder on a certain frequency by the WPC and NOCC already.</p> |