



ITU-APT Foundation of India

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09 February 2018

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**Subject: Comments / counter-comments –TRAI CONSULTATION PAPER ON
ISSUES RELATING TO UPLINKING AND DOWNLINKING OF TV CHANNELS IN
INDIA**

Kind Attention:

Dear Sir,

ITU-APT Foundation of India (ITU-APT) is a non-profit, non-political registered society, is working for last 10 years in India with the prime objective of encouraging involvement of professionals, corporate, public/private sector industries, R&D organizations, academic institutions, and such other agencies engaged in development of Indian Telecom sector in the activities of the International Telecommunication Union (ITU) and the Asia Pacific Telecommunity (APT). The society has been registered with the registrar of the societies with its secretariat working at New Delhi. ITU-APT Foundation of India (ITU-APT) is sector Member of the ITU Development Bureau (ITU-D) and ITU Telecommunication Standardization Bureau (ITU-T) which manifests its usefulness of the Indian Telecom industry.

ITU-APT Foundation of India concurs with comments of various stakeholders, in which they have stated that the 'Content' part of any broadcasting service / application, including uplinking and downlinking of TV channels, should continue to be regulated by the Ministry of Information and Broadcasting (MIB) under relevant Guidelines, while the 'Carriage' part should continue to be regulated by WPC Wing of the Ministry of Communications and TRAI.

ITU-APT Foundation of India concurs with various comments that the RF spectrum for various satellite based services and applications, including uplinking and downlinking of TV channels, has to be treated differently from the spectrum for

terrestrial services and applications. The RF spectrum for Fixed Satellite Service (FSS) has to be coordinated at international level, as per provisions of the ITU Radio Regulations. This is a complex and involved process. Hence, the FSS spectrum is a globally shared resource for all countries and humanity, as stated in the ITU Constitution. Therefore, it is not amenable to auction, and most countries around the world have not gone for auctioning spectrum for satellite services so far.

We are also of the opinion that an Act for regulating the Broadcasting services is needed urgently.

Detailed ITU-APT responses to the above mentioned consultation is in the attached document

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COMMENTS ON TRAI CONSULTATION PAPER ON ISSUES RELATING TO UPLINKING AND DOWNLINKING OF TV CHANNELS IN INDIA

General

Review of the policy guidelines relating to the uplinking and downlinking of TV channels in India is a welcome step.

Broadcasting service (as defined in No.1.38 of ITU Radio Regulations - an international treaty of the International Telecommunication Union – ITU – Geneva- India is a signatory to this treaty) *is a radiocommunication service* in which the transmissions are intended for direct reception by the general public. This service may include sound transmissions, *television* transmissions or other types of transmission.

The definition of 'Telegraph' in Indian Telegraph Act, 1885 is quite wide and encompasses all line and wireless signals, including broadcasting, similar to the understanding at international level.

Broadcasting has two main components –

- a) program or content; and
- b) The carriage or transmission (broadcast of the program or content).

Ministry of Information and Broadcasting (MIB) regulates the program or content component and the carriage / transmission / broadcast is regulated by the Ministry of Communications (WPC Wing), under the Indian Telegraph Act, 1885.

A broadcaster of TV Channels through satellite is generally a producer of `content' and the infrastructure at the teleport for up-linking the channel /content and the space segment /satellite transponder capacity used, forms the `carriage'. The Teleport Operator has to obtain the Wireless Operating Licence under Section 4 of the Indian Telegraph Act.

The down-linking of satellite TV channels does not require any specific wireless license since reception of satellite TV signals has been exempted from wireless licensing requirements.

One of the cardinal principles / objectives of the Uplinking & Downlinking Guidelines were to encourage the Indian broadcasters to uplink their satellite TV channels from India. Government is trying to improve the 'Ease of doing Business' in India. Hence, the process for approvals and wireless licence should be simplified, with progress toward 'Light Touch Licensing'

Auction of Satellite TV Channels similar to FM channels:

Satellite TV requires a different treatment from the terrestrial broadcasting like FM or terrestrial TV,

ITU's Radio Regulations, which complement the ITU Constitution, are based on the main principles of 'efficient and rational use of the RF spectrum 'and' equitable access' to the spectrum / orbit resources for countries, laid down in ITU Constitution.

Satellites and the RF spectrum to be used by them need to be coordinated at international level, for which large number of constraints are to be accepted by all countries. Hence, the satellite RF spectrum is an international shared resource.

Therefore, auctioning of satellite spectrum, by any country, has international ramifications and is not recommended.

Responses to limited number of issues in the Consultation Paper, which appear pertinent to these broad technical / regulatory aspects, have been provided, based on the above broad principles.

Issues' in Chapter 4 of TRAI consultation Paper and comments

Definition of 'News and Current Affairs channels' and Non-'News and Current Affairs Channels'

4.1 Is there any need to redefine "News and Current Affairs TV channels" and Non-News and Current Affairs TV channels" more specifically? If yes, kindly suggest suitable definitions of "News and Current Affairs TV channels" and Non-News and Current Affairs TV channels" with justification.

No comment

Net-worth of eligible companies

4.2 Should net-worth requirement of the applicant company for granting uplinking permission, and/ or downlinking permission be increased? If yes, how much should it be? Please elaborate with appropriate justification.

4.3 Should there be different net-worth requirements for uplinking of News and non-News channels? Give your suggestions with justification?

No comment

Processing fee for application

4.4 Is there any need to increase the amount of non-refundable processing fee to be deposited by the applicant company along with each application for seeking permission

under uplinking guidelines, and downlinking guidelines?, What should be the amount of non-refundable processing fee? Please elaborate with justification.

No comment

Grant of license/ permission for Satellite TV Channels

4.5 Whether auction of satellite TV channels as a complete package similar to FM Radio channels is feasible? If yes, then kindly suggest the approach.

Response: No

4.6 Is it technically feasible to auction individual legs of satellite TV broadcasting, i.e. uplinking space spectrum, satellite transponder capacity, and downlinking space spectrum? Kindly explain in detail.

4.7 Is it feasible to auction satellite TV channels without restricting the use of foreign satellites, and uplinking of signals of TV channels from foreign soil? Kindly suggest detailed methodology.

Response for 4.6 & 4.7: As mentioned above, the satellite RF spectrum is a shared international resource. Hence, it is not recommended to auction the satellite spectrum or the satellite spectrum for uplinking or downlinking, whether on Indian satellites or foreign satellites.

4.8 Is it advisable to restrict use of foreign satellites for satellite TV broadcasting or uplinking of satellite TV channels, to be downlinked in India, from foreign soil?

Response: The Radio, Television and Video Cassette Recorder Sets (Exemption From Licensing Requirements) Amendment Rules, which were last amended through GSR 18(E) dated 9 January 2001, do not impose any restriction on reception of satellite TV signals from any satellite in any frequency band. It is only their re-transmission – through Cable or any other media – which can be, and is being regulated through the existing Downlinking Guidelines and Cable TV Act. Hence, putting any further restrictions might be counter-productive and might lead to avoidable violations.

4.9 Can there be better way to grant license for TV satellite channel than what is presently followed? Give your comments with justification?

Response: Reduction in processing time and a single window clearance for grant of permission and the associated wireless license is necessary.

Entry Fee and License fee

4.10 If it is decided to continue granting of licenses for satellite TV channels on administrative basis, as is the case presently, what should be the entry fee for grant of license for uplinking of TV channels from India, downlinking of TV channels uplinked from India, and downlinking of foreign TV channels? Please suggest the fee amount for each case separately with appropriate justification.

No comment

4.11 What should be the license fees structure, i.e. fixed, variable, or semi-variable, for uplinking and downlinking of satellite TV channels? Please elaborate if any other license fee structure is proposed, with appropriate justification.

No comment

4.12 If the variable license fee structure is proposed, then what should be rate of license fee for TV channels uplinked from India and TV channels uplinked from abroad, and what should be the definition of AGR?

Response: One of the cardinal principles / objectives of the Uplinking & Downlinking Guidelines were to encourage the Indian broadcasters to uplink their satellite TV channels from India. Government is trying to improve the 'Ease of doing Business' in India. Hence, cost of uplinking from India (including licence fee and other levies) should remain competitive, with respect to uplinking from abroad. These aspects may kindly be kept in view while reviewing any fee and levies.

4.13 If the semi-variable license fee structure is proposed, then what should be the minimum amount of license fee per annum for domestic channels (uplinked and downlinked in India), uplink only channels, and downlinking of foreign channels (uplinked from abroad)?

4.14 If the fixed license fee structure is proposed, then what should be the license fee per annum for domestic channels, uplink only channels, and downlinking of foreign channels?

4.15 What should be the periodicity for payment of the license fee to the Government? Please support your answer with justification.

4.16 What should be the periodicity for review of the entry fee and license fee rates?

No comment

Encryption of TV channels

4.17 Should all TV channels, i.e. pay as well as FTA satellite TV channels, be broadcasted through satellite in encrypted mode? Please elaborate your responses with justification.

No comment

Operationalisation of TV channel

4.18 Is there a need to define the term "Operationalisation of TV channel" in the uplinking guidelines, and downlinking guidelines? If yes, please suggest a suitable definition of "Operationalisation of TV channel" for the purpose of the uplinking guidelines, and the downlinking guidelines separately.

Response: The Operationalisation / commencement of a satellite TV channel Uplinking can be treated from the time when the channel starts uplinking from the teleport, after various technical tests, etc. The corresponding downlink is also operational / available from the same time. The testing process does take a reasonable time, and the WPC operational Licence is granted after these tests have been successfully completed.

4.19 Maximum how many days period may be permitted for interruption in transmission or distribution of a TV channel due to any reason, other than the force-majeure conditions, after which, such interruption may invite penal action? What could be suggested penal actions to ensure continuity of services after obtaining license for satellite TV channel?

Response: Normally a broadcaster would not like any interruption in its services. However, in case of interruption in the satellite capacity or the teleport technical facilities, due to any problem with the satellite or otherwise, getting alternate capacity / teleport facility does take fair amount of time. (Broadcasters may like to indicate a reasonable time frame for this purpose).

Transfer of License

4.20 Whether the existing provisions for transfer of license/permission for a TV channel under uplinking guidelines, and downlinking guidelines are adequate? If no, please suggest additional terms and conditions under which transfer of license/permission for a TV channel under uplinking guidelines, and downlinking guidelines may also be permitted? Please elaborate your responses with justification.

4.21 Should there be a lock in period for transfer of license/permission for uplinking, or downlinking of a TV channel? If yes, please suggest a suitable time period for lock in period. Please elaborate your responses with justification.

4.22 Should the lock in period be applicable for first transfer after the grant of license/permission or should it be applicable for subsequent transfers of license/permission also?

4.23 What additional checks should be introduced in the uplinking, and downlinking permission/ license conditions to ensure that licensees are not able to sub-lease or trade the license? Please suggest the list of activities which are required to be performed by Licensee Company of a satellite TV channel and can't be outsourced to any other entity to prevent hawking, trading or subleasing of licenses.

Response: The uplinking and downlinking permissions / licences are not limited / restricted in number. Any broadcaster can apply for the same at any point of time and obtain the necessary permission / licence. Hence, there should be no need / incentive for any new broadcaster to sub-lease / obtain such permission from an existing broadcaster, having such permission / licence. At best it may save some time for a new broadcaster under the present process.

To that extent, the process for grant of such a permission / licence by MIB should be simplified and expedited. Even the grant of wireless licence by WPC Wing for teleport facility, based on the permission from the MIB, can be and should be expedited.

Meaning of a teleport

4.24 Whether specific definition of a teleport is required to be incorporated in the policy guidelines? If yes, then what should be the appropriate definition? Please elaborate responses with justification.

Response: A *telecommunications port* – or, more commonly, *teleport* – is understood as a satellite earth / ground station that functions as a hub connecting satellite(s) with a terrestrial telecommunications network, such as the telecommunication channels, satellite audio & video channels, Internet, etc.. Alternately it is a telecommunication network that provides access to communications satellites. Different antennae at a teleport may communicate with multiple satellites.

Teleport is basically a telecommunication facility and is licensed / regulated under the Indian Telegraph Act 1885 for grant of wireless licence. The teleports are not regulated by MIB even at present t, which is quite logical, and the same dispensation should continue.

Entry fee, Processing fee, and License fee for teleport license

4.25 Is there any need to increase the amount of non-refundable processing fee to be paid by the applicant company along with each application for teleport license? If yes, what should be the amount of non-refundable processing fee? Please elaborate with justification.

4.26 Should entry fee be levied for grant of license to set up teleport? If yes, what should be the entry fee amount? Please give appropriate justification for your response.

4.27 What should be the license fee structure for teleport licensees? Should it be fixed, variable or semi-variable? Please elaborate if any other license fee methodology is proposed, with appropriate justification.

Response for 4.25-4.27: As stated in response to Para 4.15, the regulation / control for the 'teleport' which is a telecommunication facility, should continue as at present.

4.28 What should be the rate of such license fee? Please give appropriate justification for your response.

4.29 What should be the periodicity for payment of the license fee to the Government? Please support your answer with justification.

4.30 What should be the periodicity for revision of the entry fee, and license fees rate for teleport licensees?

No comment

Restriction on the number of teleports

4.31 Whether there is a need to restrict the number of teleports in India? If yes, then how the optimum number of teleports can be decided? Please elaborate your responses with justification.

4.32 Whether any restriction on the number of teleports will adversely affect the availability or rates of uplinking facilities for TV channels in India?

Response: As stated in response to Para 4.15, the regulation / control for the 'teleport' which is a telecommunication facility, should continue as at present.

Further, there does not appear to be any need for restricting the number of teleports. Let the market forces decide this aspect. Any restriction on number of teleports may increase the cost of teleport services.

Location of teleports

4.33 What should be the criteria, if any, for selecting location of teleports? Should some specific areas be identified for Teleport Parks? Please elaborate your responses with justification.

Response: As stated in response to Para 4.15, the regulation / control for the 'teleport' which is a telecommunication facility, should continue as at present. Let the market forces decide the number and location of teleports.

Optimum use of existing teleport infrastructure

4.34 Please suggest the ways for the optimal use of existing infrastructure relating to teleports.

Response: As stated in response to Para 4.15, the regulation / control for the 'teleport' which is a telecommunication facility, should continue as at present. The market forces would decide the optimal use of teleports and their infrastructure.

Unauthorised Uplink by Teleport operator

4.35 What specific technological and regulatory measures should be adopted to detect, and stop uplink of signals of non-permitted TV channels by any teleport licensee? Please elaborate your responses with details of solution suggested.

Response: The teleport licensees, under the wireless licence, are allowed to transmit channels of a broadcaster, allowed by MIB in the Uplinking and Downlinking permission. Transmission of any non-permitted channel / program is a violation / offence for the wireless licence for such a teleport and the owner of the teleport can be prosecuted for such an offence.

Violation of wireless licence conditions can lead to imprisonment of the licensee, besides financial penalty / fine and cancellation of the wireless licence.

Any other issue

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