

RESPONSES TO CONSULTATION ON HITS (Headend in the Sky) for CABLE
DISTRIBUTION based on TRAI Consultation Paper of
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Background for HITS based on Cable Industry Expansion in analog:

(From TRAI Consultation Paper)

- *The penetration of cable TV homes has moved to 71 million in 2007 over a period of about 16-17 years. The phenomenal growth of cable TV network in the absence of well directed regulatory framework has led to the problems of lack of transparency, determination of actual number of cable connections, monopoly in the last-mile cable operations, vertical integration at higher levels of distribution chain and a highly fragmented state at the lower level of the same. Non-addressability is the main reason for controversy over actual number of cable TV homes. This has led to a situation where disputes are rampant, revenues are uncertain and investments for up-gradation are not forthcoming.*

Our Responses to the issues for Consultation:

- 1. What should be the scope of the HITS operations? Whether the scope of the HITS operator should include both the models as stated under heading "scope of HITS operation" in paras 4.5 and 4.6?*

IMCL Response:

Just as a regular Headend aggregates content and distributes signals to cable operators on cable, HITS is also a headend meant for aggregating content and distributing signals to cable operators.

In view of this, we feel both the models can coexist but with different regulatory conditions.

Model I:

We do feel that the first Model will allow economies of scale and allow use of high end encryption systems to prevent piracy. Accordingly the HITS operator should be free to set up his own teleport or use the facilities of approved third party teleport/ uplink facilities.

Model II:

The second model envisages a neutral e infrastructure provider to one or more MSOs or to a consortium of cable operators /MSOs desirous of uplinking TV channels to his HITS satellite for downlinking and further transmission to the TV homes by the cable operators across the country. IMCL is of the view that such

a model should be through a neutral infrastructure operator like Prasar Bharati or a licensed infrastructure private operator who sets up physical infrastructure and has all uplink and downlink permissions.

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

IMCL Response:

HITS operators should be allowed to choose C Band only, as HITS will be primarily to Cable Operators .

MSOs. DTH should be eligible only on Ku Band, as by very definition it is Direct to Home.

The process of going through only ISRO needs to be relooked. HITS operators should be allowed to enter into contracts with any of the Satellite Companies nationally or internationally, with formal intimation to ISRO (but not awaiting prior clearance from ISRO). However security clearance of foreign satellites can continue.

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

IMCL Response:

A MSO today services both cable operators and end customers (direct points). However in HITs platform primary services to Cable Operators and any other Franchisee of the particular HITs Operator, who can serve the direct customers.

DTH by definition should be for the end customers only. No use of Multi Dwelling Unit Dishes and Society based dishes, should be allowed as then no difference with a cable operation.

DTH, should not be allowed to supply signals directly to operators because this would kill the MSO Industry which has invested thousands of crores to set up the organized Cable Industry.

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

IMCL Response:

As HITS is an extension of MSO operations, the FDI limit in HITS should be at least at par with the prevalent FDI limit for cable.

However, since with the convergence in cable industry is already on, the FDI should be at par with the telecom industry, which is at 74% currently. With

deployment of Internet and VOIP services, FDI in cable sector should be accordingly increased and made at par with the Telecom Sector.

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

IMCL Response:

Currently there is no entry fee and license fee for Cable. Hence there should be no entry/ license fee for HITS.

The rise in service tax, entertainment tax, VAT/sales tax through widespread deployment of digital STBs based on HITS would anyway enhance the revenues of the government.

However, if any entry fee is to be considered, it should be kept at bare minimum for entry license and annual fees.

As can be observed below in our response to last query on net worth, a high-stipulated net worth should always be advisable, as it is capital-intensive business and this it will ensure serious players.

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

IMCL Response:

HITS operator should be an Indian Company, but it should be free to uplink from India or abroad.

The Channels being delivered by the HITS operator should be only those which are registered with the I & B Ministry in terms of the downlink policy. HITS operator would be obliged to discontinue distribution of any channels banned by the Government of India.

However Video based- personal content/live telecast /pay per view channels should be governed by the Cable act codes for content and advertising and any other Content bills like the pending Broadcast Bill.

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

IMCL Response:

The uplinking and downlinking guidelines and channels allowed under it should be applicable in HITS also. All the Cable Act Code guidelines for content and advertisements should remain same and be applicable for HITS.

8. Should any interconnection issues be addressed in licensing conditions?

IMCL Response:

The interconnection regulations issued should also be applicable for HITS like some of the key following areas:

- a) Must provide clause to ensure all approved channels are made available to the HITS platform
- b) Due notice before switch off and due notice for change of channels as per September 4, 2006 Interconnect Regulation.
- c) The HITS operator should be free to enter into revenue sharing arrangements with the broadcasters and cable operators.
- d) In the event the commercials cannot be agreed within say 90 days, the default sharing ratio of TRAI for CAS should prevail.

Based on the issues raised in Consultation Paper Para 4.36 and 4.37, we believe the interconnect issues on revenue share and other commercials should be allowed a stipulated time frame for the delivery chain stakeholders to come to a mutual agreement (say 90 days), failing which the CAS notification interconnect conditions should apply in HITS also.

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

IMCL Response:

No spectrum charges should be considered for the HITS provider.

As we quote from TRAI's own consultation document: "In the recommendation dated 29.04.2004 on 'Accelerating Growth of Internet and Broadband Penetration', the Authority recommended that DTH operator should be exempted from spectrum royalty fee for uplinking from within India. However this recommendation has not been given effect to so far by the Government. The same logic may be applied for the HITS operation to exempt spectrum fee for uplinking from within India."

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

IMCL Response:

Although no restrictions on cross holding exist now for Cable we feel there should be a cross media restriction which should prohibit a single, powerful broadcaster setting up his own HITS platform.

Hence for Model I scenario same crossholding restrictions (like in DTH) should be there for HITS operators and the equity norms can be set for cross media holdings, primarily to prevent monopolistic control of both content and distribution platforms.

11. Should HITS operator be allowed to offer value added services?

IMCL Response:

Yes. A HITS operator should be allowed to offer Internet and other value added services such as Pay Per View etc. In lieu of return path, cable, landlines, mobile or Internet can be utilized for providing such services. All value added services should be allowed at level playing field in Cable, DTH or IPTV, as long as the technology can sustain it to accommodate the benefits of Value add.

The restrictions for teleports discussed in Para 4.42 of consultation paper should be reviewed to ensure that HITS is able to provide Value added services like EPG, PPV etc. based on technology and spectrum availability.

12. Whether "must carry/must provide" conditions be imposed on HITS operation?

IMCL Response:

Yes there must be a Must Provide Condition. It is imperative that the "Must Provide Clause" should always be there on non-discriminatory grounds

A 'Must Carry' Clause is difficult to implement as there may be problems of capacity constraints on the transponder / space segment. Also based on regional and linguistic requirements, 'Must carry' cannot be imposed.

13. Whether a stipulated networth of specified amount be made as an eligibility criteria to avoid any non-serious applicant?

IMCL Response:

Yes. Net worth criteria is very important for ensuring entry of genuinely serious and long-term players for HITS Business.

In view of the large funding required for the HITS operations and with a view to weed out non-serious players, the minimum net worth could be say around Rs 2.5 to Rs. 4 crores.
