

Siti Network Limited response to the consultation paper on Regulatory Framework on Platform Services

At the outset we are thankful to the Authority for the opportunity to submit our response to the said consultation, however, we feel that platform services offered by MSO(s)/LCO(s) are adequately regulated under the CTN Act and the CTN Rules and therefore require no further regulations/intervention by the MIB/Authority which has also been acknowledged by MIB. Be that as it may, we have herein below provided our comments on each of the recommendations point wise:

1. Para 2.39 of the TRAI's Recommendations dated 19.11.2014 -

Authority's Recommendation – “In view of above, TRAI has no objection to accept Ministry's view provided that Ministry of Information and Broadcasting is able to specify compliance structure to ensure that those providing platform services make full disclosure on ownership status and comply to content code and advertisement code while providing platform services.”

Comments - We support and agree with the Authority's recommendation that providing platform services should make full disclosure on the ownership status and comply with the content code and advertisement code while providing platform services. The Authority and MIB is fully aware that the programming services offered by MSOs are already covered adequately under the CTN Act, 1995 and are therefore already mandated to comply to Content Code and Advertisement Code while providing programming services, which sufficiently covers the concerns of the Authority as well as the MIB with respect to transparency of programming services being transmitted on their platform. While if there is violation *of compliance by these codes or part of the Act/Rules*, the Authorized Officer, who has reason to believe that the provisions of section 3, section 4A, section 5, section 6, section 8, section 9 or section 10 have been or are being contravened by any

cable operator, he may under section 11 of the Act , seize the equipment being used by such cable operator for operating the cable television network:

The above are really very strict provisions leading to even closing down the business of the Distributor if there is non-compliance. While on the other hand there is no such law or compliance mechanism on OTT Platform, which has been duly acknowledged by MIB.

2. Para 2.45 of the TRAI's Recommendations dated 19.11.2014 -

Authority's Recommendation – The Authority has reiterated its earlier recommendations which are as follows:

“The Authority recommends that a maximum number of 5 PS channels could be offered by the cable operators in non-DAS areas. In DAS areas and for all other platforms, a maximum of 15 PS channels could be offered by the DPOs. These numbers are the number of PS channels to be made available at the subscribers' end.”

Comments - At the outset we would like to state that presently there are no NON-DAS Area and throughout the country Digitization has taken place as per the regulations issued by the Authority and MIB which is highly appreciable. We are in agreement with MIB's view that it is not in the interest of the evolving and dynamic market like cable TV to restrict the number of PS channels and that regulation may only intervene to the point of upholding consumer interests, ethical business practices, ease of doing business and safeguard against violation of programming and advertisement code. The Authority on the other hand has noted that the ability to provide a large number of PS channels will present an arbitrage opportunity for the DPO(s) as they may circumvent the regulations on broadcasting. However, the Authority has failed to recognize that platform services being offered by MSO(s) or LCO(s) are already within a robust regulatory framework of the CTN Act and the CTN Rules, which sufficiently addresses the aforesaid concerns raised by the MIB. Any further interventions would only impediment and hinder the business of MSO(s) or LCO(s). It is to be mentioned here that there are _____ satellite channels being transmitted and none of them are being distributed by circumventing the laws then

how come PS channel may circumvent the laws if the same are in large in numbers which are duly regulated by the law of the land. Restricting the entry of new PS channel may not only affect the competition but also the choice of consumers also.

We would like to draw the attention of the Authority while there is no restriction for distributing the channels by the Broadcasters which are very high in numbers, what is the need of putting restriction on the distribution of PS channels by the MSO which is putting a constraint and obstacles in the growth of cable industry and is contrary to the preamble of TRAI Act, as the Act is promulgated for the growth of industry and not to restrict the growth.

3. Para 2.52 of the TRAI's Recommendations dated 19.11.2014

Authority's Recommendation - The Authority has agreed with the suggestion given by MIB which are as follows:

".....To extend TRAI recommendation for security clearance of MSOs/LCOs in non-DAS areas, to all MSOs/LCOs who are not security cleared and wish to offer PS to their subscribers. MIB will obtain security clearance of all MSOs/LCOs, who wish to offer PS and were not MHA security cleared at the time of registration, while they run their PS. However, if at any time before the MIB obtains the security clearance, it is determined that the programming service offered on PS and which has been registered on the online system is inimical to India's national security or to the public interest, MIB may require the MSO/LCO to withdraw from distribution of the PS Channel or the programming service and/or cancel the registration."

Comments – We support and agree with the Authority's recommendation that MIB should obtain security clearance of all MSO(s)/LCO(s), who wish to offer PS and were not MHA security cleared at the time of registration, while they run their PS and such

MSO(s)/LCO(s) should be mandated to obtain security clearance(s) in a time bound manner. However, the responsibility of all regulatory compliances including obtaining security clearance and/or registration should be of the respective MSO or LCO, as the case may be.

It is to be mentioned that CTN Act and the CTN Rules are already applicable to the MSO(s)/LCO(s) which establishes a mechanism where criminal action may be taken against a Cable TV operator in case of any transgressions under the CTN Act. Further, under Section 19 of the CTN Act, the Authorized Officer is already empowered to prohibit the transmission of certain programmes in Public Interest. Under Section 20 of the CTN Act, the Authorized Officer even has the power to prohibit the operation of cable TV network in public interest. Hence, the concerns of the Authority/MIB are sufficiently dealt with in the present regulatory framework of the CTN Act and the CTN Rules.

We reiterate and state that MIB and the Authority to put in place such a comprehensive regulatory framework for the OTT platforms as well, since they are also providing platform services and illegal retransmission of registered satellite channels.

4. Para 2.7 of the TRAI's Recommendations dated 13.11.2019

Authority's Recommendation - Authority, therefore, agrees with the views of MIB. The definition of Platform Services (PS) shall be:

"Platform services (PS) are programs transmitted by Distribution Platform Operators (DPOs) exclusively to their own subscribers and does not include Doordarshan channels and registered TV channels. PS shall not include foreign TV channels that are not registered in India."

Registered TV channels or television channels means a channel, which has been granted downlinking permission by the Central Government under the policy

guidelines issued or amended by it from time to time and reference to the term ‘channel’ shall be constructed as a reference to ‘television channel’.

Comments – The definition proposed by us in our comments to the CTN Amendment Act and state that the word ‘programme’ should be replaced with the term ‘programme services’. Accordingly, the definition proposed by us would read as below:

“Platform Service” – are programme services transmitted in the form of channel through the addressable systems of Distribution Platform Operators (DPOs) exclusively to their own subscribers and does not include Doordarshan channels, ground-based channels and satellite TV channels.

5. Para 2.16 of the TRAI’s Recommendations dated 13.11.2019

Authority’s Recommendation - The Authority agrees with the views of MIB. The authority recommends that:

(i) The programme transmitted by the Direct To Home (DTH) operator/ Multi Systems Operators (MSOs)/ Internet Protocol Television (IPTV)/ Head-End Into The Sky (HITS) operator as a platform service shall be exclusive and the same shall not be permitted to be shared directly or indirectly with any other Distribution Platform Operator (DPO).

(ii) Programme transmitted by the DTH operator/ MSOs/ IPTV/ HITS operator as a platform service shall not directly or indirectly include any registered TV channel or Doordarshan channel or foreign TV channel. Time-shift feed of registered TV channels (such as +1 services) shall not be allowed as a platform service.

(iii) DTH operator/ MSOs/ IPTV/ HITS operator shall ensure and provide an undertaking to the Ministry in the format prescribed by the Ministry that the programme transmitted is exclusive to their platform and not shared directly or indirectly with any other DPO.’

(iv) In case the same programme is found available on the PS of any other DPO, MIB/TRAI may issue direction to immediately stop the transmission of such

programme. MIB also reserves the right for cancellation of registration of such PS of the DTH operator/ MSOs/ IPTV/ HITS operator.

Comments – The Authority has proposed the above recommendations with the sole objective of ensuring uniformity of guidelines to DTH operators and MSOs. However, the Authority while proposing its views in favour of a common regulatory regime, has failed to comprehend that both distribution platforms are significantly distinct from one another in various manners. As the mode of distribution by DTH and Cable are inherently distinct and hence should not and cannot be brought within the same regulatory framework. We reiterate that the DTH operators are not permitted to provide platform services unlike MSO(s) who provide platform services in terms of the CTN Act read with the CTN Rules and to that extent are prima facie incomparable. Equating DTH with MSO(s)/LCO(s) is also fundamentally incorrect as they are incredibly different in terms of their licensing conditions, subscriber base, organization structure, mode of transmission *et cetera*. Hence, prescribing a uniform regulatory regime is highly erroneous, unfair and unequal.

Also, as stated herein above, platform services (*being offered illegally as on date*) by the DTH operators are satellite based and therefore, the provisions as applicable to satellite-based channels should be applicable to the platform services offered by the DTH operators including applicable fees, eligibility criteria and other conditions.

6. Para 2.37 of the TRAI's Recommendations dated 13.11.2019

Authority's Recommendation - The Authority agrees with the views of MIB. The authority recommends that the DTH operator/ MSOs/ IPTV/ HITS operator shall provide an option of activation/deactivation of platform services as prescribed in the orders/directions/regulations issued by TRAI from time-to-time.

Comments – We agree with the Authority’s recommendation and are already providing this option of activation/deactivation of platform services to the subscribers/consumers.

7. Para 2.45 of the TRAI’s Recommendations dated 13.11.2019

Authority’s Recommendation - The Authority agrees with the views of MIB. The Authority recommends that for the DTH operator/ MSOs/ IPTV/ HITS operator:

(a) The platform services channels shall be categorized under the genre ‘Platform Services’ in the Electronic Programmable Guide (EPG) subject to orders/directions/regulations issued by TRAI from time-to-time.

(b) The respective maximum retail price (MRP) of the platform service shall be displayed in the EPG against each platform service subject to orders/directions/regulations issued by TRAI from time-to-time.

(c) A provision for putting a caption as ‘Platform Services’ may be required to distinguish the platform services from the linear channels. Government may decide the caption in a size which is visually readable by the consumers.

Comments - We are in agreement with the aforementioned recommendations given by TRAI.