03 April 2023 **By Email/ Hand**

Telecom Regulatory Authority of India,
Mahanagar Doorsanchar Bhawan,
Jawahar Lal Nehru Marg, Old Minto Road
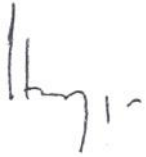New Delhi – 110 002

Kind Attn: **Shri Sanjeev Kumar Sharma, Advisor (Broadband and Policy Analysis)**

Subject: **Tata Play's response to TRAI Consultation Paper on Regulating Converged Digital Technologies and Services – Enabling Convergence of Carriage of Broadcasting and Telecommunication services**

Dear Sir,

We write with reference to the above-mentioned Consultation Paper. We thank you for granting us the opportunity to provide our comments.

Please find attached our comments.

Thanking you.

Yours sincerely,

Harit Nagpal
Managing Director and CEO

Enclosed: As above

TATA PLAY'S RESPONSE DATED 03 APRIL 2023 TO TRAI'S CONSULTATION PAPER ON 'REGULATING CONVERGED DIGITAL TECHNOLOGIES AND SERVICES – ENABLING CONVERGENCE OF CARRIAGE OF BROADCASTING AND TELECOMMUNICATION SERVICES' DATED 30 JANUARY 2023

TRAI QUESTIONS

Q1. Whether the present laws are adequate to deal with convergence of carriage of broadcasting services and telecommunication services? If yes, please explain how?

OR

Whether the existing laws need to be amended to bring in synergies amongst different acts to deal with convergence of carriage of broadcasting services and telecommunication services? If yes, please explain with reasons and what amendments are required?

OR

Whether there is a need for having a comprehensive/converged legal framework (separate Comprehensive Code) to deal with convergence of carriage of broadcasting services and telecommunication services? If yes, provide details of the suggested comprehensive code.

TATA PLAY RESPONSE

➢ Content has reached its consumers through multiple pipes as technology has progressed over the year. Laws have emerged for some of these Content & Pipe combinations and every time a new pipe was invented, the new combination Content & Pipe combination got treated differently from the perspectives of Licensing and Regulation. Hence there is a need to relook at what makes these businesses before we decide on what and how to License or Regulate. While many technologies may have emerged over the years, at the core of every content delivery service, lies:

   a) The content
   b) A pipe that transmits the content

➢ Making laws piecemeal, as and when new technologies hence pipes emerged, has led to different laws, licenses and taxes for the same content that flows through various pipes. Some glaring anomalies that can be highlighted are:
   • Content flowing through the Cable & DTH pipes is licensed by the MIB and regulated by NTO of TRAI with respect to its price and margins. The same content when it flows through Free Dish or OTT pipes requires neither.
   • DTH was paying 10% License Fee which was subsequently lowered to 8% on the revenue it generates for carrying content. Cable, while also being Licensed by the same bodies pays no LF. Other pipes do not come under the purview of these bodies anyway despite carrying the same content.
   • While there are cross holding restrictions for DTH, no such restrictions are applied to other pipes which often carry content produced by common shareholders/owners.

➢ Hence, we have been making laws not for the basic components but combinations of components, as and when they have emerged. As a consequence, the combinations that escaped regulations have thrived while the ones that got regulated, are languishing.

➢ Hence in our opinion there needs to be one set of laws covering all pipes, regardless of whatever they carry. By the same token, one set of laws and regulations need to govern a content regardless of the pipe it uses to reach the customer.

➢ By their nature, pipes and content have different dimensions that define them. Hence, we need specialist law makers for these two dimensions. This will take care of new technologies as they emerge in the future too. This will also solve the dilemma of whether to regulate OTT or not because one set of laws made by the Telecom Ministry will cover the pipes, viz internet, DTH or cable and another set

made by the MIB will cover the content that flows through these pipes. Both can be regulated by the TRAI.

➢ In contrast, today we have laws that are made for specific combinations of pipes and content and that is causing the anomalies

➢ Regulation is required when:
   a) the resources are scarce hence a need for fair distribution and price discovery
   b) the product requires monitoring
   c) there are limited number of suppliers, hence the need to prevent monopolies and protect the price and QoS for the customer.

➢ The media and entertainment sector has 4 private and 1 public DTH player, a large number of Cable operators, HITS platforms, over 900 TV channels and 100s of OTT Apps flowing through competitive mobile and fixed line broadband pipes. The hypercompetitive nature of the content industry has kept the prices low, often declining, despite the inflationary environment across all products and services across the globe. The situation calls for forbearance and not overregulation as it prevails today.

TRAI QUESTIONS

Q2. Whether the present regime of separate licenses and distinct administrative establishments under different ministries for processing and taking decisions on licensing issues, are able to adequately handle convergence of carriage of broadcasting services and telecommunication services?
If yes, please explain how?
If no, what should be the suggested alternative licensing and administrative framework/architecture/establishment that facilitates the orderly growth of telecom and broadcasting sectors while handling challenges being posed by convergence? Please provide details.

TATA PLAY RESPONSE

➢ Governance and regulation by a Ministry must be as per the industry.
➢ The Ministry of Information and Broadcasting is focused to media and entertainment, content of a programme and the issues around it, however the Department of Telecommunication is focussed on spectrum issues of telecom operators.
➢ Broadcasting and Entertainment and Telecom Services are two separate verticals.
➢ Content or its delivery cannot be governed by the DoT.
➢ Content delivered through any medium should be governed by MIB.
➢ Convergence, in our view is required of the regulatory and licencing conditions of content that flows through various pipes so that there is a level playing field and equal opportunity of growth to all which currently is missing.

TRAI QUESTION

Q3. How various institutional establishment dealing with –
(a) Standardization, testing and certification.
(b) Training and Skilling.
(c) Research & Development; and
(d) Promotion of industries
under different ministries can be synergized effectively to serve in the converged era. Please provide institution wise details along with justification.

TATA PLAY RESPONSE

➢ The Set Top Boxes of DTH are required to be tested and certified. However, the OTT devices are not required to be tested or certified. A similar mandate needs to be imposed on OTT platforms or the requirement for testing and certification of DTH STBs should be removed as well to bring parity.

TRAI QUESTIONS

Q4. What steps are required to be taken for establishing a unified policy framework and spectrum management regime for the carriage of broadcasting services and telecommunication services? Kindly provide details with justification.

Q5. Beyond restructuring of legal, licensing, and regulatory frameworks of carriage of broadcasting services and telecommunication services, whether other issues also need to be addressed for reaping the benefits of convergence holistically? What other issues would need addressing? Please provide full details with suggested changes, if any.

TATA PLAY RESPONSE

➢ As stated in our response to query 2, the Ministry of Information and Broadcasting is focused to media and entertainment, content of a programme and the issues around it, however the Department of Telecommunication is focussed on spectrum issues of telecom operators.
➢ Content or its delivery cannot be governed by the DoT. Content delivered through any medium should be governed by MIB. DoT should focus on governing the pipes that carry the content.