

11th September, 2017

By Email and hand

Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhawan
Jawaharlal Nehru Marg
New Delhi - 110002

Subject: Response to the Consultation Paper on Ease of Doing Business in Broadcasting Sector dated 31st July, 2017

Kind Attn: Prof. M. Kasim, Advisor (B&CS)-III

Dear Sir,

We thank the TRAI for this opportunity to express our views on the above captioned consultation paper. Tata Sky's response to the same is attached for your ready reference.

Yours faithfully,



Himavat Chaudhuri
Chief Legal and Regulatory Affairs Officer

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TATA SKY'S RESPONSE TO THE CONSULTATION PAPER ON EASE OF DOING BUSINESS IN BROADCASTING SECTOR, 31ST JULY, 2017

❖ **New DTH License Framework**

The license of two DTH operators has expired and are currently operating under an interim approval. License of another two operators will expire by November 2017, and the last two by 2018 (refer to table below).

DTH Operator	License Validity	Remarks
Dish TV	September 2013	Interim permission until December 2017
TATA Sky	June 2016	Interim permission until December 2017
Sun Direct	November 2017	
Reliance	November 2017	
Airtel	May 2018	
Videocon d2h	December 2018	

*source: <http://www.broadcastseva.gov.in/webpage-User-dth> as on 7-09-2017.

You will appreciate that maintaining a stable business environment and investor confidence is an important factor for the ease of doing business in any sector. And to achieve this objective in a licensed sector like broadcasting, having a valid full-fledged license is a vital requirement. While the Ministry is working on announcing the new DTH licensing policy, we believe that a reiteration by the TRAI in this regard would go a long way in bringing an early and successful closure of this issue.

❖ **Migration of existing permissions on License Migration or Renewal**

As part of the DTH operations, operators are required to obtain and have obtained numerous approvals and permissions, viz. security clearances of board members and key personnel, wireless operating license, uplinking permissions, disaster recovery permissions, DPL license etc.

It is envisaged that, as and when the new DTH licensing policy is announced and the DTH operators will be asked to migrate to the new licensing regime. It would be logical and appropriate that all the existing approvals and permissions are automatically migrated to the new license and the operators are not asked to seek all those permissions/approvals afresh. It would be a great inconvenience and might have a serious business impact if the above does not happen.

We wish to highlight a similar precedence in the telecom sector wherein post expiry of the initial license period of the mobile operators, they have reacquired the new license and all permissions and approvals associated with the previous license were migrated and validated along with the new license.

A suitable recommendation by the TRAI in this regard will help in addressing this concern. Since the Ministry is currently engaged with the formulation of the new licensing policy, this would be an appropriate time for a suitable recommendation.

❖ **Processes/steps and timelines between frequency allotment and commencement of broadcast**

We thank the TRAI for acknowledging this vital issue in the consultation paper. It is desired that there be a single window process. And the Ministry of Information and Broadcasting is most appropriately placed to discharge this function. However, it is important that they should be suitably empowered (even for issues related to satellite, transponders and spectrum approvals) for the single window mechanism to be effective.

As noted, the period for all permissions and approvals could extend to six months or more and operators need to pay relevant fees, without being able to use the satellite capacity which is eventually a cost burden on subscribers. Therefore, we request the TRAI to issue appropriate recommendations regarding the commencement of the various government levies (transponder lease, NOCC, WPC) to be payable and effective only from the date of the final broadcast permission.

❖ **Rationalization of charges by NOCC and WPC**

Both WPC and NOCC charge a substantial amount (NOCC - Rs.60,000/- per MHz per annum and WPC - ~RS.90,000/- per MHz per annum) of moneys for providing various clearances and the permission to broadcast. Having separately paid the charges for the transponders to the DoS, the activity conducted by WPC and NOCC is for satisfaction of the government's policies currently in effect. Therefore, either no charges should be levied as is the case with MIB, or at the very least such charges should be nominal in nature which should cover only the administrative costs incurred. We would request the TRAI to analyse these charges in greater detail and issue suitable recommendations if found appropriate.

❖ **Freedom to operate within the scope of services which have been clearly defined under the DTH License**

The DTH License clearly provides for the scope of services and the various related responsibilities and obligations for providing those services. Despite the above the DTH Licensees are still required to approach the authorities for further permission and clearances. Few examples of such permissions are:

- Prior approvals for changing the equity structure of the licensee company as well as amending the shareholders agreement, and security clearances for appointment of key personnel.
- NOC from the MIB for additional transponders, shift over of transmission from Primary station to DR (disaster recovery) station, import clearances, DPL/ NDPL license validation and endorsements etc.

We would request the TRAI to analyse the existing process and issue suitable recommendations for enabling an easier business environment.

❖ **Prior approval and security clearance for appointing key personnel/ Directors to the Board – Indian and Foreign – and approval delayed by more than a year**

There have been considerable delays in obtaining security clearances for appointing key personnel in DTH companies in the past.

You will kindly appreciate that such long delays in the deployment of senior and key functionaries in any organization leads to substantive impact on the business operations. Moreover, key decisions and projects are held up and inordinately delayed.

We request for the current policy to be modified to allow for the immediate appointment of the personnel and suitable recommendations to be issued in this matter which could be subject to the outcome of final security clearance.

❖ **Incentives on encouraging online/ digital payment to be extended to DTH**

The government has announced a major push towards cashless society and is encouraging online/ digital modes for financial transaction post the demonetization exercise.

We have been hearing reports that the government is negotiating an agreement with Banks and merchants for them providing incentives and discounts in the transaction charges for online/card payment of several government payments/ petrol payments and others.

We request that our sector regulator should also proactively recommend to the relevant regulatory bodies and government departments for a similar incentive and discount schemes to be extended to the DTH operators. We request that the TRAI may issue appropriate recommendations on this subject.

❖ **Quarterly PMR filing with TRAI**

The Quarterly reports that are filed each quarter with the TRAI are extremely voluminous in nature and seek a lot of information/data which may or may not be relevant. To compile all the data and submit within the stipulated time period is a humongous task requiring several man-hours of efforts.

It also appears that the broadcasters are not obligated for such quarterly reports when most of the information being sought should ideally be provided by the broadcasters directly.

It would be ideal that the quarterly PMR is completely done away with or the frequency is reduced. However, if this option is not considered viable, then we request for a review and simplification of this report.

❖ **Toll Free Access**

The QoS Regulation requires a DTH operator to establish a call centre with a toll free access number for its subscribers. This mandate imposes a significant cost on the DTH operators from the perspective of charges payable to the telecom operator for the use of telecom resources by the customers. Consequently, these costs are then passed on to the subscribers by way of these costs getting loaded on to the subscription tariffs. This implies that the cost

of calling by a subset of our subscriber base is being borne by the entire subscriber base which does not use this facility.

We wish to highlight that in the corresponding regulation for telecom operators, the scope of toll free access is limited only on-net (short digit) calling and there is no mandate for a toll free long code/1800 number. Consequently, the only cost that a telecom operator incurs under mandate is on the call centre operations.

We believe that providing a toll free access to consumers should be a business call, with the competition and market forces determining this decision. We request the TRAI to consider this matter and thereby initiate a consultation process for review of this aspect of the regulation.

We are also attaching our response to the pre-consultation dated 19th May, 2017 as part of this submission wherein some of the concerns have been elaborated in detail.

19th May, 2017

By Email and hand

Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhawan
Jawaharlal Nehru Marg
New Delhi - 110002

Subject: Response to the Pre-Consultation Paper on Ease of Doing Business in Broadcasting Sector dated 17th April, 2017

Kind Attn: Prof. M. Kasim, Advisor (B&CS)-III

Dear Sir,

We thank the TRAI for this opportunity to express our views on the above captioned pre-consultation paper. Tata Sky's response to the same is attached for your ready reference.

Yours faithfully,



Harit Nagpal
Managing Director and CEO

TATA SKY'S RESPONSE TO THE PRE-CONSULTATION PAPER ON EASE OF DOING BUSINESS IN BROADCASTING SECTOR, 17TH APRIL, 2017

ISSUES FOR CONSULTATION

1.9 (i) *Issues related to processes and procedures for obtaining permission/ license/ registration for the following broadcasting services and subsequent compliances connected with these permissions.*

- (a) *Uplinking of TV channels*
- (b) *Downlinking of TV channels*
- (c) *Teleport services*
- (d) *Direct-to-home services*
- (e) *Private FM services*
- (f) *Headend-in-the sky services*
- (g) *Local Cable Operators*
- (h) *Multi System Operators*
- (i) *Community Radio Stations*
- (j) *Any other related issue*

(ii) *Allocation of broadcasting spectrum*

- (a) *Clearance from Department of Space*
- (b) *WPC clearance for broadcasting services*
- (c) *SACFA Clearance Process*
- (d) *Clearance from Network Operations Control Center (NOCC)*
- (e) *Any other related issue*

(iii) *Other Issues*

- (a) *Disaster Recovery Site for DTH Operator*
- (b) *Transmission of radio services over DTH platform*
- (c) *Right of Way for cable operators*
- (d) *Broadband through cable TV*
- (e) *Open sky policy for KU band*
- (f) *Rationalization of FDI policy in broadcasting sector*
- (g) *Developing India as a teleport hub*
- (h) *Skilled manpower in broadcasting sector*
- (i) *Indigenous manufacturing of broadcasting equipments*

1.10 *In addition, there could be other issues which may be requiring policy interventions to facilitate ease of doing business. In view of the above, the stakeholders are requested to identify such areas of concern and provide complete details of the nature of the problem and scope for improvement with suggest mechanisms that can ease the business activity in the broadcasting sector.*

TATA SKY RESPONSE:

We remain concerned on the above issues for consultation and would like to bring the following to the attention of the TRAI:

1. Processes/steps and timelines between frequency allotment and commencement of broadcast

For a DTH Operator – starting from the acquisition of Satellite Transponder capacities from Department of Space (DoS) until the commencement of broadcast – the following steps are required to be completed:

Process Steps	Description	Issuer	Approx. Timelines
Start	Receipt of Frequency Allotment Letter	DoS	NA
Step 1	No Objection Certificate	MIB	9 weeks
Step 2	Frequency and Carrier Plan Approval	NOCC	1 week
Step 3	Decision Letter for Grant of Operating License	WPC	7 weeks
Step 4A	Equipment Import License	WPC	6 weeks
Step 4B	Mandatory Performance Verification Testing (MPVT) for antenna	NOCC	4 weeks *
Step 5	Wireless Operating License	WPC	3 weeks
Step 6	Final Uplinking Permission	NOCC	1 week
Total Approx. Timelines			27 weeks

*Steps 4A & 4B are taken in parallel and hence only the longer duration has been considered.

As illustrated in the table above, the whole process, beginning from the receipt of the Frequency Allotment Letter until the receipt of the Final Uplinking Permission, takes approximately 27 weeks (approx. 6 months).

The lease charges for the transponders start being paid to the DoS from the date of Frequency Allotment Letter. Hence, the delay in the Final Uplinking Permission results in wastage of precious national resource (spectrum) and also financial burden on the DTH Operator since, monetization of the frequency can only happen from start of broadcast.

There is to and fro occurring between NOCC and WPC which are both departments within the same ministry (DoT).

- ❖ It is desired that there should be a single window process. We request that the consultation paper delve on this aspect in further detail for appropriate recommendation.

2. Rationalization of charges by NOCC and WPC

Both WPC and NOCC charge a substantial amount (NOCC - ~Rs.60,000/- per MHz per annum and WPC - ~RS.90,000/- per MHz per annum) for providing various clearances and ultimately the permission to broadcast. Having paid the charges to the transponders to the DoS, the activity done by WPC and NOCC is administrative in nature and is in regard to processing of various permissions. Such administrative charges should be a nominal amount which would cover the costs incurred by the respective departments for providing the clearances. It may kindly be appreciated that all such costs are loaded onto the customer pricing and hence it our collective responsibility to keep the cost to the customer low by only charging optimum levies on the licensees.

- ❖ We request that the consultation paper cover the above aspect of need for rationalization of the NOCC and WPC charges.

3. Freedom to operate within the scope of services which have been clearly defined under the DTH License

The DTH License clearly provides for the scope of services and the various related responsibilities and obligations for providing those services. In all due fairness, a license holder should not need to repeatedly approach the various licensing and regulatory authorities for further permission and clearances. Few examples of such permissions are:

- Prior approvals for changing the equity structure of the licensee company as well as amending the shareholders agreement, and security clearances for appointment of key personnel. As long as the licensee is within the framework of the License, an intimation based regime should suffice. In case of any contrary observation at a future date, corresponding curative action will be taken.
 - NOC from the MIB for additional transponders, shift over of transmission from Primary station to DR (disaster recovery) station, import clearances etc.
- ❖ **A valid license holder should not need to repeatedly approach various licensing/regulatory bodies for additional permissions for providing services within the scope of the license. We request that this issue may be dealt with in the proposed consultation paper.**

4. Prior approval and security clearance for appointing key personnel/ Directors to the Board – Indian and Foreign – and approval delayed by more than a year

There have been considerable delays in obtaining security clearances for appointing key personnel in DTH companies in the past.

You will kindly appreciate that such long delays in the deployment of senior and key functionaries in any organization leads to substantive impact on the business operations. Moreover, key decisions and projects are held up and inordinately delayed.

The sector has been continuously investing substantial sums of moneys towards upgradation to the 'state of the art' technology and in turn is providing quality entertainment to the citizens of India and contributing to the nation through revenue share, taxes, job creation and also meeting the national objective of digitization. In pursuit of excellence and global best practises, the sector requires to appoint highly qualified and experienced executives who could also be a foreigner.

- ❖ **We request for the current policy to be modified to allow for the immediate appointment of the personnel and this issue may kindly be included in the proposed consultation paper for suitable recommendations.**

5. Quarterly PMR filing with TRAI

The Quarterly reports that are filed each quarter with TRAI are extremely voluminous in nature running into more than two hundred pages of submissions and seek a lot of information/data which may or may not be relevant. To compile all the data and submit within the stipulated time period is a humongous task requiring several man-hours of efforts.

It also appears that the broadcasters are not obligated for such reports when most of the information being sought should ideally be provided by the broadcasters directly.

- ❖ **It would be ideal that the quarterly PMR is completely done away with. However, if this option is not considered viable, then we request for a review and simplification of this report.**

6. Incentives on encouraging online/ digital payment to be extended to DTH

The government has announced a major push towards cashless society and is encouraging online/ digital modes for financial transaction post the demonetization exercise.

We have been hearing reports that the government is negotiating an agreement with Banks and merchants for them providing incentives and discounts in the transaction charges for online/card payment of several government payments/ petrol payments and others.

- ❖ **We request that our sector regulator should also proactively recommend to the relevant regulatory bodies and government departments for a similar incentive and discount schemes to be extended to the DTH operators. We request that the proposed consultation paper may kindly include this aspect as well.**