

ISSUE-WISE COMMENTS

ON

CONSULTATION PAPER DATED 7th DEC. 2020

(i) Para 2.39 of the TRAI's Recommendations dated 19.11.2014

This is regarding the ownership registration and insertion of PS only at the Head-end. TRAI wants the DPOs including the MSOs and LCOs to get registrations as a Company under the Indian Companies Act.

The points to be noted here are:

- i. Even a Digital MSO applicant was not asked to register as a Company.
- ii. Even Sole Proprietorship/Partnership are also registered bodies and as such must be acceptable. GST registration can be a criterion.
- iii. It must be noted that recently the condition for satellite channel permission has also been relaxed and Limited Liability Partnerships (LLPs) were also allowed to apply for permission.
- iv. Hence, registration as a company should not be mandatory for MSOs/LCOs.

TRAI insists that the PS channels are inserted at Head-end only:

- i. So far, about 90% of the LCO's cable channels are not inserted at the Head-end. This is due to the sheer negligence on the part of TRAI in enforcing the strict rule of encryption, which is the primary issue in digitization.
- ii. LCOs are avoiding sending their content to MSO's point since broadband charges are required to be paid and they want to avoid that.
- iii. Even the MSOs are not insisting on encryption since they want to please their LCOs on one hand and the number of LCO channels will reduce the head-end capacity considerably.
- iv. There is no mechanism to control the content since the MSOs are not asked to store the content of PS for a minimum period, say at least for 30 days, to check complaints on violation of Program and Advertisement Code specified in the Cable TV Act.
- v. The State Level and District level Monitoring Committees suggested by the MIB, for checking the violations of Satellite and Cable Channels, have not been constituted in more than half of the states.
- vi. TRAI has to finalize a structure where only encrypted signals are sent to the consumers, including the PS (Cable channels of MSOs and LCOs)

(ii) Para 2.45 of the TRAI's Recommendations dated 19.11.2014

TRAI has rightly said that the ability to provide a large number of PS channels will present an arbitrage opportunity for DPOs as they may circumvent the regulations on broadcasting.

- i. TRAI reiterated once again that “the technical arrangement in DAS is such that a Television Channel can only be inserted at Head-end. Even if an LCO wishes to provide his channel, the feed for same must be provided at the head-end of the MSO”. This is not being followed at the ground level and it is very much astonishing that the violation has not yet come to its notice. The core idea of digitization lies in encryption and this is blatantly violated by the LCOs in connivance with the MSOs.
- ii. The number of PS channels allowed is suggested based on the distribution capacity of the headend (i.e. the number of satellite channels it carries). However, the basis is not correct since the core idea of having PS channels is to serve the subscribers. Instead, the PS channels may be allowed in proportion to the connectivity (number of households the DPO is serving). This sounds meaningful a bigger MSO serving the huge population will have more PS channels and a small MSO will have a proportionately lesser number of PS Channels.
- iii. Similarly, if LCO serving as low as 500 households are also allowed to run cable channels just because he is distributing 400 Satellite channels, it is just meaningless. The content transmitted cannot be controlled, whenever there is a violation of the Code. So, there can be the minimum number of households served for permitting to run a cable channel. For example, an LCO with a minimum of 5,000 or 10,000 connectivity may be permitted to run a cable channel.
- iv. On the other hand, how do the LCO produce content? Practically, 80% of the content on LCO channels is movies, music, and such other content, on which they don't have any rights. Just because there is no monitoring, they carry all such content on their channels. Can this content be called LOCAL?
- v. By agreeing to run as many as 1% of the satellite channels they carry, MIB and TRAI are expressly allowing the LCOs to resort to piracy. Is there any declaration by the MSOs/LCOs that the content telecast is rightfully acquired by them?

(iii) Para 2.52 of the TRAI's Recommendations dated 19.11.2014

Nothing to comment

(iv) Para 2.7 of the TRAI's Recommendations dated 13.11.2019

The definition of PS Channels needs to be more exhaustive. TRAI seems to be very hasty in applying the recommendations it gave for DTH to MSOs and LCOs.

- i. All the DPOs cannot be treated on the same lines as DTH. Mere replacing the word DTH with MSO/LCO will not help.
- ii. The area of service of a DTH operator is different from MSOs. Barring a few big corporate MSOs who have a national presence, most of the MSOs are location specific and their content is apt for PS channels. Instead of taking the number of satellite channels distributed as the criteria. The subscribers served should be considered.
- iii. The definition fails to take into consideration the unique features of HITS Operator while deciding on the PS Channels. It has some features of a DTH Operator and some features of Cable MSO.
- iv. The content distributed by the LCOs under HITS also runs their local channels but the content distributed is encrypted. Thus, they are strictly following the guidelines of Digitization in this particular aspect. TRAI must accept this fact in the light of its repeated mentioning of encrypted signals under DAS.
- v. If the LCOs of HITS are also asked to send their signals to the MSOs headend, there is no meaning in it since the content they transmit is already encrypted.
- vi. If the LCOs are asked to follow the same rules laid down for other MSOs, how can the HITS Operator with more than 10,000 LCOs (let us assume roughly) be asked to send content to the headend and accommodate their channels? If the 1% rule is made applicable to them, their channels will be 10,000 multiplied by 5 (since the average channels carried by the HITS LCOs is 500) i.e., 50,000 cable channels. Is it possible?
- vii. The assumption that the content transmitted by the DPOs is exclusive to their channels is again objectionable. There are channels run by non-DPOs but transmitted through DPOs by collecting carriage fees. The definition ignores this widely prevalent aspect.

Para 2.7 of the TRAI's Recommendations dated 13.11.2019

In its recommendations on DTH Operators' PS Channels, TRAI recommends that "The program transmitted by the DTH 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)." It also asks the DTH Operator to give an undertaking to MIB to that effect. MIB has

proposed that the same recommendations may be applied to MSOs/LCOs by replacing the word DTH with MSOs/LCOs.

It is highly misleading and inappropriate:

- i. The area of operation of an MSO is different from that of an LCO, leave alone the DTH operators. There are only 4 DTH operators (Prasar Bharati's DD Freedish is not considered since it is not privately owned and doesn't collect subscriptions) in the country whereas there are 1600 Digital MSOs registered with the MIB.
- ii. Usually, the LCOs depend on some content selling agencies since the cost of the creation of exclusive content is too high. Some agencies supply at least 5-8 hours of content per day on a monthly subscription of Rs. 5,000 to 8,000. In such a scenario, if there is a condition that content duplication is not allowed, it is highly difficult for the LCOs to run cable channels. In the name of DPOs, how can the rules made for DTH operators be applied to LCOs?
- iii. Some LCOs allow local content producers to run channels on their (LCO) platforms. Such channels are telecast on more than one LCO. In the wake of the new recommendations, those channels will be stopped and as such, they are forced to forego their revenue source.
- iv. The MSOs also transmit the channels run by outsiders on charging carriage fees. They include genres such as news, education, and devotion. The producers of such channel approach as many MSOs as possible to distribute their content. If the new recommendation comes into force, all such channels will be stopped. Is there any remedy for them?
- v. The recommendations also say that 'in case the same program is found available on the PS of any other DPO, MIB/TRAI may issue a direction to immediately stop the transmission of such program. MIB also reserves the right for cancellation of registration of such PS channel. Is it possible to monitor about a lakh of LCO channels in India?

There are many such doubts, confusions, and deficiencies in the recommendations of both TRAI and the MIB. These issues may be discussed fully well by the TRAI before giving its final recommendations to MIB or framing the guidelines.

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