

Response of AIDCF to the Consultation Paper on Entry Level Net worth requirement of Multi-system Operators in Cable TV services

Dear Sir,

At the outset we thank Telecom Regulatory Authority of India (TRAI) for giving us an opportunity to provide inputs on the requirement of Net worth for Multi System Operators in Cable TV Services.

Please find below AIDCF views on the questions raised in the said Consultation Paper.

Issue for Consultation

3.1. Do the present rules and provisions as regards eligibility and net worth for MSO require a review or modification? Give your answer with justification?

AIDCF's Comment:

Under the present rules prescribed for getting a license for operating as a Multi System Operator (MSO) any individual/company/associations of individuals can do so by paying a processing fee of one lakh only. The present rule does not have a filter for serious and non-serious players. The financial strength will out rightly give the Regulator/MIB an insight into the seriousness and sustainability of a MSO and also its strength to comply with the mandate of Regulations framed by TRAI. Eligibility of minimum net worth will not only put a check on the violation of rules by MSOs but also ascertain the sustainability and growth of MSOs and cable sector. Accordingly, we are of the opinion that Regulator /MIB should define a minimum net worth eligibility for grant of MSO License. Therefore present rules and provision requires modification. It may be noted that grant of License though is the first step towards starting operations as a MSO, it involves setup of infrastructure on a colossal scale for making it operational. The MSO operations has to be qualitatively sound to be in compliance with the parameters detailed by Hon'ble TRAI vide various regulations more specifically the regulations and guidelines shaped for the benefit of subscribers and lack of financial strength will have a negative bearing on the same.

It is stated that the financial strength will out rightly give the Regulator/MIB an insight into the seriousness and sustainability of a MSO and also its strength to comply with the mandate of Hon'ble TRAI. It may be noted that absence of financial checks is leading to chaos, resulting not only into extinction and impact on the growth of cable sector but also unemployment. The random mushrooming of MSOs due to easy accessibility to MSO license has resulted into upsurge of a class of MSOs who have no reverence for the mandates of TRAI, which is flouted openly and due to lack of filters and checks only few of big MSOs always remain in focus and ultimately have to bear the ire/brunt of regulator.

It is submitted that every regulation by Hon'ble TRAI has been legislated with the motive of parity, uniformity and subscriber benefit in its core. However the very motive of Hon'ble TRAI is not achieving its end due to chaos created because of non-availability of financial eligibility. It may be noted that while at one end few of the MSOs are being chastised for compliance of mandates others are clearly flouting the rules in the guise of financial constraints.

It is stated that being a MSO operating in particular region does not necessarily mean that it has financial limitation and cannot comply with the mandates of TRAI. It may be noted that irrespective of the size of area of operation the said MSOs are market leader or holds the second position.

It is submitted that eligibility of minimum net worth will not only put a check on the violation of rules by MSOs but also ascertain the sustainability and growth of MSOs and cable sector. Accordingly, we are of the opinion that Regulator /MIB should define a minimum net worth eligibility for grant of MSO License.

3.2 If yes, should there be provisions specifying eligibility only for registered proprietorship/partnership firms or it should continue to include individuals or group of individuals at present? Please elaborate your comments with reasons and facts.

AIDCF's Comment:

Operational and statutory compliances mandated by RAI for operating as a MSO are uniform and accordingly the financial strength whether it is company/ registered proprietorship/partnership firms or a group of individuals have to be even and maintained for smooth conduct of the business and statutory compliances as a MSO. The Law should be uniformly applicable to everyone without creating a special class within the same class.

3.3 Is there a need for prescribing an entry level minimum net worth for the MSOs? Please justify your comments.

AIDCF's Comment:

Yes, owing to lack of financial eligibility/criteria for grant of MSO license many non-serious entities get license which ultimately have a bearing on the compliances and quality of the customer service. It may be noted that policies of government are framed on the basic principle of uniformity and accordingly MSOs should also be viewed in the parlance of said principle. For getting license to operate as a HITS operator or DTH Operator, an entry fee is Rs. 10 crore, for MSOs a meagre amount of Rs. One lakh. The entry of non-serious entities had ultimately affected the quality of service being provided by the MSOs and the same is quite evident from switchover of subscriber from MSO's platform to DTH platform. It is stated that the introduction of platform like OTT apart from DTH are giving stiff competition to the MSOs and unless entities with appropriate financial strength who can match the quality and promptness of service of other platforms are allowed to operate as a MSO, the platform will perish.

3.4 If yes, what should be the procedure to check and verify the net-worth in case of individual or group of individuals? Similarly, what should be the mechanism to verify the net-worth as claimed by business entities like proprietor-ship firm, partnership firm, LLP or Company as the case may be?

AIDCF's Comment:

For verifying the net-worth in case of individual or group of individuals the details/documents such as income tax return of last three years,

property tax payment details if any, copy of inheritance documents such as succession certificate etc., Banker's Certificate, DP Service Provider portfolio, CIBIL reports can be sought by the Regulator.

It is stated that the individual and /or group of individuals on the basis of the above should be further required to furnish certificate from a practicing chartered accountant certifying the net-worth and cash flow.

3.5 Should the net worth requirements for entrant MSO be based on its proposed area of operation? Give your comments with justification.

AIDCF's Comment:

The permission for operating as MSO is provided on PAN India basis and hence the net worth requirement should also be decided accordingly i.e. uniformly for all MSOs irrespective of its area of operations. It is submitted that whether the MSO is operating in particular area/state or has pan India presence there are requirements and compliances not only under the Cable Television Networks Rules, 1994 but also under the Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017 which has to be mandatorily followed for operating as a MSO. It may be further noted that irrespective of area of operations every MSO is required to make investment for setup of head ends, Conditional Access System (CAS), Subscriber Management System (SMS), Call Centers, set top boxes, office infrastructure etc. and accordingly have to be financially sound to keep going as a MSO.

3.6 If yes, what could be different classification of entrant MSOs based on area of operation? Give your comments with justification.

AIDCF's Comment:

We are not in favor of categorization based on area of operation, however without prejudice to what is stated above in our response to issue numbered as 3.5 it is stated that we can classify the MSO as

National Level, State Level, City Level/ District Level MSO. The MSO who operates in more than 5 states can be construed as National Level, MSO operating in less than 5 states can be construed as State Level and likewise City/District Level.

3.7 What should be the entry level net worth for each of the categories of MSOs if any classification is made on the basis of area of operation? Give your comments with justification

AIDCF's Comment:

There are minimum investments which is mandatorily required to be made to start operation as a MSO irrespective of the area of operation. The fixed cost involves the cost of head ends, CAS, SMS, set top boxes etc. The fixed cost would vary depending upon the number of channel carrying capacity of the head end and the number of Set top Boxes proposed to be seeded by the new MSO. Further, in our opinion for a MSO business to be viable and profitable the minimum number of set top boxes that needs to be seeded should be 50,000, while the head end should have a channel carrying capacity of at least 300. The same view has also been echoed by TRAI under the provisions of The Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations, 2012. This is because of the fact if the new MSO intends to provide only basic service tier he would not be able to retrain/have any subscriber as these subscribers would migrate to either free dish or doordarshan which is free of cost. Accordingly, on the basis of such assumption the minimum net-worth for a MSO operating in any region/geography should be Rs. 20 crores.

3.8 In case, license area of MSO's is classified on the basis of area of operation, what should be the mechanism and criteria to classify existing MSOs? Please comment with proposed process to reclassify.

AIDCF's Comment:

As stated in response to 3.6 all MSOs can be categorised as National Level, State Level, City Level/ District Level MSO.

The proposed process for re-classification is as below:

- i) All the existing license holders should be asked to submit to MIB
 - a. A certificate duly signed by their compliance officer certifying the area of operation of the existing MSOs along with an affidavit affirming the correctness of the information furnished.
 - b. A certificate from statutory auditor in case of a partnership firm/proprietorship firm/LLP/Company certifying the area of operation of the existing MSO should be submitted. In case of an individual or a body of individual an affidavit certifying to the area of operation of the MSO along with a certificate from a practising Chartered Accountant.
- ii) Further the certificate should also contain a declaration that in case the information provided is found to be incorrect, MIB would be empowered to cancel the license of the concerned MSO

It is however submitted that every time the status of MSO changes i.e. a City/District MSO starts its operation on a State Level or a State Level MSO starts/extends its operation on a Pan India basis, going beyond its existing territory should necessarily require resubmission of the above certificates/affidavit.

3.9 Should the minimum net worth required in case of MSOs operating in North east and/or J&K be relaxed compared to other regions? Please provide suitable justification.

AIDCF's Comment:

We have already discussed categorization based on area of operations and cost involved in functioning as a MSO. The compliances and requirements are same expect the net worth which the Regulator might fix/decide based on the category of the MSO and

accordingly, we are of the opinion that there should not be any further relaxation on any ground whatsoever.

3.10 If yes, by how much should the entry level net worth criteria be relaxed? Please give your comments with justification.

AIDCF's Comment:

As stated in 3.9

3.11 What are the components of the fixed costs incurred by an entrant MSO? Give your comments with justification.

AIDCF's Comment:

Under the provisions of Cable Television Network Rules, 1994, the terms of license granted by MIB for operating as a MSO and the QoS Regulation it is mandatory to set up digital head end, CAS, SMS, maintain websites, provide set top boxes by a MSO and make it functional within six months of the grant of License. Accordingly the fixed cost would include the following:-

CAS,SMS, head end, STBs, Capex on ground equipments, cost of QoS compliance, Manpower cost, Office expenses etc.

3.12 What are the components of the variable costs incurred by an entrant MSO?

AIDCF's Comment:

Variable cost includes cost of bandwidth, Call Centre Charges, Commissions etc.

3.13 How do the fixed costs and the variable costs depend upon the scale of the operation that is for the small, medium and large operators?

AIDCF's Comment:

The area of operations does not have much bearing on the fixed cost if the said equipment are in compliance with the TRAI Regulations however, the variable cost which comprises of bandwidth,

commissions and call centres charges etc. might changes as per the requirement of the MSO.

3.14 Should the minimum net worth required be based upon the average fixed cost incurred by an entrant? If yes, what should be the appropriate criterion? Please explain

AIDCF's Comment:

There are minimum investments which is mandatorily required to be made to start operation as a MSO irrespective of the area of operation. The fixed cost involves the cost of head ends, CAS, SMS, set top boxes etc. The fixed cost would vary depending upon the number of channel carrying capacity of the head end and the number of Set top Boxes proposed to be seeded by the new MSO. Further, in our opinion for a MSO business to be viable and profitable the minimum number of set top boxes that needs to be seeded should be 50,000, while the head end should have a channel carrying capacity of at least 300. The same view has also been echoed by TRAI under the provisions of The Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations, 2012. This is because of the fact if the new MSO intends to provide only basic service tier he would not be able to retrain/have any subscriber as these subscribers would migrate to either free dish or doordarshan which is free of cost. Accordingly, on the basis of such assumption the minimum net-worth for a MSO operating in any region/geography should be Rs. 20 crores.

3.15 Discuss if there could be some other criteria in context of costs incurred such as a combination of average fixed and variable costs

AIDCF's Comment:

The fixed cost would vary depending upon the number of channel carrying capacity of the head end and the number of Set top Boxes proposed to be seeded by the new MSO. Please refer to 3.14 comment.

3.16 What is the average cost incurred in establishing a minimum capacity of 100/200/300/500 channels? Should the minimum net worth depend upon the proposed channel carrying capacity of the entrant? Please justify.

AIDCF's Comment:

For establishing a minimum capacity of 100/200/300/500 channels the cost incurred would be approx. 15 Cr/18 Cr./21 Cr./25 Cr. respectively

The permission for operating as MSO is provided on PAN India basis and hence the net worth requirement should also be decided accordingly i.e. uniformly for all MSOs irrespective of its channel carrying capacity.

3.17 If the answer to question 3.16 is in affirmative, what should be the minimum net worth requirement for an entrant MSO willing to provide just the basic service tier of channels? Further, how should the minimum net worth requirement vary with increase in proposed capacity tier?

AIDCF's Comment:

Please refer to 3.16 comment.

3.18 Should the minimum net worth depend upon the proposed number of subscribers that an applicant MSO would cater to? Please justify

AIDCF's Comment:

There should not be any further categorization for fixation of net-worth. We can take a cue from the net-worth and guidelines prescribed for the TV Broadcasters wherein irrespective of the size and shape of the company or the guarantee of viewership the net-worth eligibility is uniform for all of them.

3.19 If the answer to question 3.18 is in affirmative, what should be the proposed number of subscribers and the relevant net worth for the same?

AIDCF's Comment:

Please refer to 3.18 comment.

3.20 Discuss if any other criterion could be used to determine the entry level net worth of the MSOs?

AIDCF's Comment:

No Comment

3.21 Should necessary modifications be made in Cable TV rules in case of individual applicants so as to ascertain his/her net worth more prudently compared to the existing regime?

AIDCF's Comment:

Rule 11 A and 11 B of the Cable Television network Rules , 1994 does not speaks about any minimum net-worth eligibility. Accordingly to accommodate the requirement of net-worth and basis of its classification the cable television network rules indeed be required to be modified.

3.22 Should the individual be permitted to seek MSO registration? If he/she is permitted, what should be the method for calculating and verifying his/her net worth?

AIDCF's Comment:

The grant of License to an individual subject to his/her competence to comply with the mandate of TRAI and other relevant statutory compliances and meeting the proposed net worth criteria.

3.23 Which documents need to be furnished at the time of registration in order to justify the given net worth requirements for all other 3 cases, i.e., body of individual, partnership firms, companies?

AIDCF's Comment:

For verifying the net-worth in case of individual or group of individuals the details/documents such as income tax return of last three years, property tax payment details if any, copy of inheritance documents such as succession certificate etc., Banker's Certificate, DP Service Provider portfolio, CIBIL reports can be sought by the Regulator.

It is stated that the individual and /or group of individuals on the basis of the above should be further required to furnish certificate from a practicing chartered accountant certifying the net-worth and cash flow.

3.24 Comments on the contents of proforma on the basis of which net worth for the new entities is to be calculated?

AIDCF's Comment:

Please refer to 3.23 comment. We agree with Sample Proforma Annexure –II.