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Consultation Paper on Ease of Doing Business in Telecom and Broadcasting Sector

AVIA welcomes the opportunity to comment on the Telecom Regulatory Authority (TRAI) of India's consultation on the **"Ease of Doing Business in Telecom and Broadcasting Sector"**. AVIA is the trade association for the video industry and ecosystem in Asia Pacific. It serves to make the video industry stronger and healthier through promoting the common interests of its members.

Our membership consists of a combination of local, regional and multi-national companies, many of which are substantial cross-border investors; creating and purchasing video content to meet rapidly expanding consumer demands and investing in India's communications and creative industries.

AVIA applauds the stated aspiration for India to be a leading nation in terms of Ease of Doing Business, attracting foreign investments, and easing the regulatory framework in the country. We also share the TRAI's belief that the broadcasting and telecommunications sectors and their ancillary support industries can and should be a fount of growth, creativity and job creation for India in the decades to come, and that an improved trajectory for this growth exists, and should be sought, by government and industry working together. And we welcome the initiatives that the government has so far taken to move towards this goal. However, as we have noted in the past, there is more, relatively small changes that can be made which can make a relatively large difference in the operation of businesses in India, and on the perception of India as a "business-friendly" environment. As a broad goal, we would suggest that the licensing framework, regardless of which ministry/department manages it, should be simplified.

One of the key concepts towards simplifying processes, especially with regards to the licensing process, is the use of a time-bound, fully integrated, digital single window clearance along with a single agency effectively empowered to administer and drive the process, and supported by technology. As the lead supervisory and licensor ministry for our industry, the MIB is well-positioned to assume this responsibility whilst actively coordinating with other involved agencies/ministries. Equally, MIB should be given sufficient authority to be able to move the processing along, where there are no exceptional questions raised, taking control of the timeline to prevent unnecessary delays. All of this should be done electronically in order to create an accessible, streamline, transparent process with clear timelines in place for all involved to work towards.

We offer the following specific comments in relation to the questions asked by TRAI in the consultation paper:

Q1. Whether the present system of licenses/permissions/registrations mentioned in para no. 2.40 or any other permissions granted by MIB, requires improvement in any respect from the point of view of Ease of Doing Business (EoDB)?

As we have already noted, it is vital that empowerment of the MIB is clear to all involved. In terms of timelines, these should be clearly stated and agreed so as not to unduly delay straightforward applications. An agency might, for example, be given a reasonable 15-day period to approve an application or – where it has well-founded doubts about an applicant – it could issue a statement of objection and require further time. (Such objections should not be tolerated as routine ways of handling all applications; they should be exceptional.) In the absence of a well-motivated objection, MIB should have the authority to move forward with the license. Maintenance of the benchmark timelines even for, say, 90% of applicants would achieve greatly improved results for the vast majority of business applicants. Using an online platform to deliver this application would also enable users to track the status of any applications.

Introduction of a fully functional, integrated, electronic “single window” clearance system

AVIA is confident that the implementation of a national electronic single-entry window serving as an “e-one stop shop” portal, if executed well, will facilitate simplification and reduction of processing time for regulatory processes and procedures across all sectors. The portal should be one-stop solution for all approvals and permission and should be seamlessly integrated across various ministries/departments with the end-to-end online system. Though the Ministry has taken steps such as introducing the Broadcast Seva portal, the implementation and effective use is awaited eagerly by the sector. Currently, the Broadcast Seva portal doesn’t serve as a single window clearance system and the filing of application requires submission of documents in physical format with no clear timelines defined. We recommend that there be specific and clear timelines for queries, application processing and approvals should be provided in the electronic single-entry window. We suggest that timelines for the Ministry/department to (i) respond to queries; and (ii) grant approvals be clearly stated in the future electronic single-entry window. The Ministry/department should also be obligated to respond within the stipulated timeline(s). This provides certainty and predictability to enterprises/entrepreneurs applying for licenses/approvals thereby facilitating critical/time sensitive business decisions and ease of doing business. The “single window” system should allow applicants to easily access, track status and progress of their applications.

MIB currently requires submission of physical copies of the application made online through the BroadcastSeva portal, along with copies of relevant documentation, such as affidavits and undertakings, to MIB. It is suggested that digital signatures, as provided for in the Information Technology Act, 2000, be accepted and accordingly, any document bearing digital signatures, be allowed to be submitted online. In addition, we suggest that affidavits accompanying the online applications be done away with for existing broadcasters provided there is no change in ownership of channel, shareholding etc. This would make the application method fully online, thereby reducing processing time and speeding up the application approval process.

With respect, we would also advocate that relevant application and payment portals should also be integrated. Payments for applications to the MIB are currently made online via a separate portal, the Bharatkosh portal. Once online payment is done, the applicant has to upload the receipt generated by Bharatkosh portal onto the Broadcast Seva portal. We suggest that the application and payment portals should be integrated. This is in line with TRAI’s idea of an electronic single-entry window enabling applicants to apply for and obtain all licenses/approvals.

AVIA would suggest that there are other areas where processes could be streamlined, for example, repeated consideration of the same issues by the same applicant for change of name, or logo, or for temporary unlinking, is not necessary and the need for seeking prior permissions in such cases should be substituted with giving prior intimations by the broadcaster. For example, we appreciate that presently, the online annual license fee payment made 60 days prior to the due date is considered by itself sufficient permission for continuation for a channel for a further period of one year, provided the validity of 10-year permission is available. This approach can be adopted for other matters too.

The requirement for obtaining security clearance from Ministry of Home Affairs (MHA) should be done away with for existing broadcasters who hold existing uplink and downlink permissions of TV channels and make an application for new channels/renewals. A one-time clearance given to the broadcaster coupled with clearance of its key executives should be sufficient, provided the broadcaster has undertaken that there is no change of ownership.

The dynamic nature of the satellite TV broadcast sector needs to respond to the ever-changing consumer interests, tastes and preferences. Hence, broadcasters require to adjust accordingly and sometimes change the name and logo of their channels as they innovate upon the content being delivered through the TV channels. This process of change could be simplified for applicants if there is mere change in name and logo of any channel. In these cases, rather than a prior approval, a prior notification should be prescribed.

There should be a time-bound transfer of licenses and acquisition. Acquisition via National Company Law Tribunal-sanctioned mergers or demergers should not require further permission from MIB as long as the resultant or transferee company is already a licensee under the Guidelines.

The electronic single-entry window should also provide for surrendering of licenses. At present, if a company intends to shut down a channel, the MIB Guidelines are silent on the process of surrendering a license. A company sends an email to MIB to inform them of the intention to shut down. We suggest that an option be provided on the electronic single-entry window to allow for surrender of the license. This is in line with a truly online process to facilitate ease of doing business.

We also encourage the MIB to consider reviewing Level III of the Complaint Redressal Structure in the Cable Television Networks (Amendment) Rules, 2021 to facilitate ease of doing business. In particular, to consider the need for Level III in light of Levels I and II mechanisms in place to address consumer complaints.

The involvement of multiple ministries causes delay in getting approvals as they do not stick to any stipulated timeframe and can derail business planning. Therefore, it is suggested that all relevant ministries/departments, including the Wireless Planning Commission (“WPC”) and National Operations and Control (“NOCC”) process should also be brought online and integrated into the single window clearance system that enables the filing of applications online with MIB and the concerned ministries/departments are asked to give their comments online through intranet amongst ministries. The entire process should be time-bound so that businesses can take time-sensitive decisions.

Streamlining the Temporary Uplinking process for sporting events

The sports broadcast business is primarily based upon making available live sports events. Presently, sports channels are treated as “non-news and current affairs” channels for the purpose of licensing

by MIB and hence have to seek temporary permission for live uplink like any other channel in this category. MIB should consider permitting issuance of short term/temporary channel licenses, specifically to cater the need of broadcasting multiple feeds of the same live event. A separate permission should be issued for sports channels, by which such sports channels (having majority of content as live sports) can up-link from any location in India, at any point of time, without the need to seek individual permissions for every single match and venue. This would bring them on par with the “news and current affairs channels” as both are engaged primarily in live broadcasts.

Currently broadcasters are forced to get prior approval from three different bodies, MIB, WPC and NOCC even for minor changes. Such a mechanism does not encourage world class entertainment events or sporting events to be live broadcast by Indian channels. Sports broadcasters should be allowed to broadcast live sporting events by way of a self-declaration stating that it will only live up-link sporting events and no news or news related content shall be carried on such feed. Where possible, sports broadcasters should be permitted to seek temporary up-linking permission for their entire annual calendar of sporting events in one go and if there is any last minute change, the sports broadcaster should merely be asked to notify rather than wait for last minute amendment and approval.

In order to support varying business needs and consumer experience, MIB should consider permitting issuance of short term/temporary channel licenses, specifically to cater to the need of broadcasting multiple feeds of the same live event (such as a sporting event in various languages) as well as assuring audiences the availability of overlapping live events (including events of national importance).

To avoid any kind of interference and conflict of business interest with other services like DTH players, uplinking of TV channels when allowed in frequency band other than C-band, then signals should be transmitted in encrypted format only.

Finally, AVIA notes that foreign satellites are currently permitted to provide services only after the same have been coordinated with ISRO. MIB could therefore obtain list of such foreign satellites from DoS which are coordinated with ISRO, and the list of such foreign satellites could be made available on MIB’s website. Broadcasters could then be aware on the list of permitted foreign satellites, and avail services only from such permitted foreign satellites for uplinking of signals. This could facilitate MIB’s process for approving new channels or change of satellite (in case of permitted channels), wherein they could refer to such list of foreign satellites rather than sending the file to DOS on each occasion.

Q2. Whether the present system of licenses/permissions/registrations mentioned in para no. 3.81 or any other permissions granted by DoT, requires improvement in any respect from the point of view of Ease of Doing Business (EoDB)?

AVIA has no comments on this issue.

Q3. What are the issues being faced in the existing processes of granting registration to IP-I providers? Identify and suggest measures to address the same.

AVIA has no comments on this issue.

Q4. What measures should be taken to promote small and medium telecom infrastructure providers with ownership of the network created by them for maintaining the quality of services?

AVIA has no comments on this issue.

Q5. Please provide your response with suggestions to improve the present system of operations and maintenance of the undersea cable network.

AVIA has no comments on this issue.

Q6. Please suggest changes needed to simplify the following clearance/ permit procedures by various Government Authorities.

AVIA has no comments on this issue.

Q7. Please provide your response with proper justification to improve the present system of EMF radiation compliance.

AVIA has no comments on this issue.

Q8. What mechanism do you think should be followed in DoT to facilitate investors in exploring possibilities of business opportunities in the field of telecom?

AVIA has no comments on this issue.

Q9. Whether the present system of licenses/clearances/certificates mentioned in para no. 3.94 or any other permissions granted by WPC, requires improvement in any respect from the point of view of Ease of Doing Business (EoDB)?

As we have noted already in this submission, the key issue for improving processes is better inter-departmental coordination; identification of clear-cut timelines; and creating enabling framework for new technologies. Introduction of new technologies and digitalization of the uplink process has allowed multiple channels to be carried on a single frequency. Consequently, if WPC and NOCC permissions have been given for a transponder on a certain frequency for a new channel, any additional channel applications by the same applicant on the same transponder and frequency should not necessitate a fresh WPC and NOCC permissions. Rather a simple notification should be given to the WPC and the NOCC in respect of such additional channels.

Additionally, as we have already suggested, provision should be implemented for a single annual application to WPC/ NOCC for the entire duration of a year or the relevant period, in case of broadcasters with an advance calendar of live entertainment, sporting and non-news events. Provided that, following long-term/annual approval, a separate notification shall be sent to the WPC/ NOCC of transponder capacity use. Equally, there should be a single window, online clearance system regarding the application and approval of temporary events. In the case of sporting events, including ongoing tournament-based and continuing events like cricket, football, etc , MIB should issue its permission on the basis of number of days and locations only rather than requiring exact time dates, which may change at short notice. Additionally, for temporary live uplinking services

such as sports, corporate events, etc. that require the use of DSNG vans / terminals the WPC Wing should charge on hourly or daily basis rather than for a whole month

Irrespective of the frequency used, AVIA recommends that fees should only be levied on a transmission basis. This practice is being followed in other countries like Sri Lanka, Bangladesh, Singapore, UAE, UK etc. Mostly in all these markets, the regulator only charges nominal license fees for administrative purposes. No separate spectrum charges or any satellite monitoring charges (such as NOCC fees) are charged. Only a single fee, as charged by the satellite service provider is being paid globally, along-with the nominal license fees for administrative purposes.

Q10. Whether the present system of permission/approval mentioned in para no. 3.101 or any other permissions granted by NOCC, requires improvement in any respect from the point of view of Ease of Doing Business (EoDB)?

Introduction of new technologies and the digitalization of the uplink process has allowed multiple channels to be carried on a single frequency. Consequently, if WPC and NOCC permissions have been given for a transponder on a certain frequency for a new channel, any additional channel applications by the same applicant on the same transponder and frequency should not necessitate a fresh WPC and NOCC permissions. A simple notification should be given to the WPC and the NOCC in respect of such additional channels.

In view of this, it is suggested that major streamlining of part of the WPC, NOCC and MIB is required in order to facilitate ease of doing business. It is suggested that an online portal be created for NOCC permissions and the same be integrated with the “single window clearance system” so as to enable ease of doing business.

Q11. Whether the present system of permissions/approvals mentioned in para no. 3.107 or any other permissions granted by TEC, requires improvement in any respect from the point of view of Ease of Doing Business (EoDB)?

AVIA has no comments on this issue.

Q12. What measures should be taken to ensure that there is no duplicity in standards or in testing at BIS, WPC, NCCS, and TEC? Which agency is more appropriate for carrying out various testing approvals?

AVIA has no comments on this issue.

Q13. Whether the present system of getting fresh and additional space segment capacity on Indian and foreign satellites for various services mentioned in para no. 4.15 or any other new service from DOS, requires improvement in any respect from the point of view of Ease of Doing Business (EoDB)?

All broadcasters use satellites for the delivery of channels to the recipient DTH operators, MSOs and LCOs as applicable. As ISRO satellites are not readily available or available with sufficient capacity, many of the Indian broadcasters use foreign satellites in addition to INSAT/GSAT satellites. Broadcasters bear considerable cost to lease transponder capacity, and the foreign satellites used by broadcasters are usually bound by long term contractual obligations, which are difficult to break away from. In case the broadcasters are forced to migrate to Indian satellites, then breach of the

contractual obligations would lead to serious implications including payment of exit fees, long drawn litigation or arbitration. Additionally, if broadcasters are forced prematurely to migrate to Indian satellites and the artificial scarcity of spectrum allocation is highlighted, then the implementation of the “open sky” policy will be hampered. As of now, there is no scarcity of orbital spectrum, as long as foreign satellites are used, while mandatory up-linking from India to an Indian satellite may cause scarcity of transponders and restrict growth of the broadcast sector. Furthermore, Indian satellites are not well equipped to provide replacements or backups in case of technical glitches.

In view of this, we suggest that the validity of the permission/approval issued by DoS for use of satellite and transponder be same as the uplink and downlink permission for a TV channel issued by MIB. The uplink/downlink permission issued by MIB is valid for a period of 10 years whereas the validity of the DoS permission/approval is valid for 3 years.

As foreign satellites are permitted to provide services only after the same have been coordinated with ISRO and, as we have already suggested, MIB could obtain list of such foreign satellites from the DoS that are approved/coordinated with ISRO, that list could be made available on MIB’s website and any application on these satellites should have automatic approvals. Broadcasters would then be aware on the list of permitted foreign satellites, and use services only from such permitted foreign satellites for uplinking of signals. This could facilitate MIB’s process for approving new channels, wherein they could refer to such list of foreign satellites for every new applicant rather than sending the files to DOS each time.

As we have previously stated, all applications should be dealt with electronically as transactions and all approvals accorded online.

In order to avoid any conflict of business interest and interference, two operations should not be allowed on a particular satellite. For example, if an operator A is operating DTH on satellite B, then satellite B should be specifically used for DTH only. No other service for example teleport should be allowed on satellite B and this should also be followed vice-versa.

Q14. Whether the existing procedures to acquire a license for providing satellite-based services in the existing framework is convenient, fast, and end-to-end online for the applicants? If not, what other measures are required to simplify the various processes to enable ease of doing business in India for satellite-based services?

Refer to above response.

Q15. Whether the present system of permissions/registrations mentioned in para no. 5.10 or any other permissions granted by MeitY along with BIS, requires improvement in any respect from the point of view of Ease of Doing Business (EoDB)?

TRAI should mandate all the licensed distribution platforms operators to only use BIS certified equipment to ensure Quality of Service (QoS) standards for the end consumers, protection of content and stoppage of revenue leakages to all the stakeholders which include the exchequer.

Q16. What are the issues being faced by various service providers in seeking stable and committed quality power supply connections from power DISCOMS? For statewide operations whether it is feasible to get power supply in time bound manner for various locations from a single-window contact or has to be made region-wise. What measures do you suggest to improve the same?

AVIA has no comments on this issue.

Q17. Whether the extant mechanism of reporting and filing at the SARAS portal and the offices of Controller of Communication Accounts (CCA) simple and user-friendly? If not, what measures are required to make it simple, transparent, and robust? Justify your comments.

AVIA has no comments on this issue.

Q18. Whether any issues are being faced by the telecom service providers during declaration and verification of documents for deduction claimed from the Gross Revenue and special audits of revenue? If yes, provide your comments with the reasons thereof.

AVIA has no comments on this issue.

Q19. What improvements do you suggest in the various extant audit processes conducted by DoT LSAs? How the process of the Customer Acquisition Form (CAF) audit can be further simplified? Provide your comments with justifications.

AVIA has no comments on this issue.

Q20. What measures are required to be taken to simplify the various submissions/filings made by teleport operators, DTH operators, MSOs, and other stakeholders at MIB?

As there is no clarity on the number of last mile cable operators in the country the registration process of LCOs should be made online and on the dedicated portal of MIB with due verification process. This will help understand how many LCOs are in the country and their obligations to the licensing ministries, to the stakeholders who include broadcasters, consumers and the government.

In relation to the registration of channel names/logos, we urge stronger coordination between MIB and the Trademark Registry. Downlink licenses should not be granted to applicant companies having channel names/logos that are identical/similar to already existing channels. There is a need for MIB to check with the Trademark Registry if an identical or similar mark has been applied for or granted to anyone other than the applicant company.

Q21. TRAI seeks multiple reports through its multiple divisions at predefined frequency intervals. Reports submitted by operators are examined and for non-compliances, show cause notices are issued and financial disincentives are imposed, wherever applicable. Do you think there is a need to improve reporting and compliance system in TRAI?

The broadcasters are required to upload requisite information in respect of interconnection agreements pursuant to the Telecommunication (Broadcasting and Cable) Services Register of Interconnection Agreements and all such other matters Regulations, 2019. The BIPS portal continues

to evolve even after its launch in January 2020. Broadcasters face multiple issues such as screen freeze when any new functionality is added, inability to upload documents, absence of an editable option, while uploading the information sought by TRAI. These issues/concerns have been brought to TRAI's notice on multiple occasions by the broadcasters by way of letters.

Additionally, there remain outstanding issues with the system most notably around the provision of information. Previously, the requisite information was filed once a year by July 31 however, now the same information is required to be filed upon execution of the interconnection agreement(s) with the DPOs on ongoing basis, which at times results in uploading on a daily basis. This makes the entire process cumbersome and is not in the spirit of the ease of doing business. It is suggested that the requisite information be required to be filed on a quarterly/half-yearly basis with an ability to upload bulk data on Microsoft excel format. Additionally, it is suggested that the BIPS portal should have the ability to extract data from the Microsoft excel file and be uploaded under relevant headers on the BIPS portal. We would also recommend that where the same information is sought by TRAI, or indeed any other ministry, that the information uploaded by broadcaster on the BIPS portal be could be accessed online without the need for additional submissions.

Q22. Identify those redundant items which require deletions and at the same time the items that need to be included in the reporting and regulatory compliance systems due to the technological advancements.

AVIA would suggest that the BIPS portal be equipped with Artificial Intelligence tools that will help in faster resolution of issues faced by broadcasters while uploading requisite information. There are softwares that enable/assist in editing/incorporating correct date/numbers/spellings in case of typographical errors. Such tools also enable options to be provided to the user, making the entire process faster and facilitating the user to upload requisite information with least errors.

Q23. What kind of IT-based reports and compliance submission processes do you suggest in TRAI? Provide your comments.

AVIA has no comments on this issue.

Q24. Are there any other issues in the present system of licenses/ permissions/registrations granted by MIB/DoT/WPC/NOCC/TEC/DOS/ MeitY/MoP that can be identified as relevant from the perspective of ease of doing business in the telecom and broadcasting sector? If yes, provide a list of those processes and suggest ways for their improvement.

AVIA has no comments on this issue.

Conclusion

In conclusion, the existing administrative system of licensing has resulted in a vibrant Indian television broadcast sector. Nevertheless, the existing system could be improved by for example (i) reducing processing times, (ii) reducing the number of separate licences or approvals that may be required for a given activity, (iii) eliminating duplication, (iv) simplifying requirements, and (v) making outcomes more predictable as far as possible. An open, streamlined, stable, transparent, prompt and predictable licensing system will lay a solid foundation for future growth of this important sector in India.

About the Asia Video Industry Association (AVIA)

AVIA is the non-profit trade association for the video industry and ecosystem in Asia-Pacific. It serves to make the video industry stronger and healthier through promoting the common interests of its members. AVIA is the interlocutor for the industry with governments across the region, leads the fight against video piracy and provides insight into the video industry to support a vibrant industry ecosystem. AVIA evolved from CASBAA in 2018.

AVIA's leading members include: Amazon, AsiaSat, Astro, BBC Studios, Discovery Networks, The Walt Disney Company, WarnerMedia/HBO Asia, NBCUniversal, Netflix, now TV, Star India/Hotstar, TrueVisions, TV5MONDE, ViacomCBS Networks International, A&E Networks, Akamai, Baker McKenzie, BARC, beIN Asia Pacific, Bloomberg Television, Brightcove, Canal +, Cignal, Converge ICT, Dolby, Eutelsat, France 24, Globecast, Globe Telecom, Invidi, iQiyi, Irdeto, Intelsat, KC Global, La Liga, Limelight, Magnite, Mayer Brown, Measat, MediaKind, Motion Picture Association, NAGRA, NBA, NHK World, Nielsen, Planetcast, Premier League, Singtel, Skyperfect JSAT, Sony Pictures Television, SES, Synamedia, TMNet, TV18, TVBI, The Trade Desk, Vidio, Viaccess, Viacom18, White Bullet and Zee TV