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Ref No: RP/FY 17-18/037/300  
Dated: 31<sup>st</sup> January 2018

To,  
**Shri Sunil Kumar Singhal,**  
**Advisor (B&CS-II),**  
Telecom Regulatory Authority of India,  
Mahanagar Doorsanchar Bhawan,  
Jawahar Lal Nehru Marg,  
New Delhi - 110 002.

**Subject: Response to Consultation Paper on "Issues relating to Uplinking and Downlinking of Television Channels in India"**

**Reference: TRAI Consultation paper dated 19<sup>th</sup> December, 2017**

Dear Sir,

This is with reference to your above mentioned consultation paper. In this regard, please find enclosed our response for your kind consideration

Thanking you,

Yours Sincerely,  
For **Bharti Telemedia Limited**

A handwritten signature in blue ink, appearing to read 'R. Gandhi', with a horizontal line underneath.

**Ravi P. Gandhi**  
**Authorized Signatory**

**Enclosed: As mentioned above**

## **Response to TRAI Consultation Paper to 'Issues relating to Uplinking and Downlinking of Television Channels in India'**

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- 1. Is it advisable to restrict use of foreign satellites for satellite TV broadcasting or uplinking of satellite TV channels, to be downlinked in India, from foreign soil?**

### **BTL's Response:**

We submit that there should **not be any restriction** on the use of foreign Satellite for Indian Satellite TV broadcasting.

- a. We agree with the views expressed in the paper that mandatory uplinking from Indian Territory to Indian Satellite may cause scarcity of satellite transponders and may restrict the growth of the broadcasting sector. Thus, auctioning a resource by restricting its supply, would not be a right approach as it would lead to increase in the costs incurred by operators, as they would be forced to bid aggressively.
  - b. Moreover, huge expenditure has been incurred by existing players, who are using foreign satellites, in setting up their infrastructure and are bearing significant operational costs. The respective authorities i.e. MIB, NOCC and WPC have already accorded the approval for rightful use of the respective satellites to exiting entities for using the foreign satellites and any restriction on the use of foreign satellites would effectively negate the permissions granted by the respective authorities.
- 2. What should be the license fees structure, i.e. fixed, variable, or semi-variable, for uplinking and downlinking of satellite TV channels? Please elaborate if any other license fee structure is proposed, with appropriate justification.**

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  - 3. If the variable license fee structure is proposed, then what should be rate of license fee for TV channels uplinked from India and TV channels uplinked from abroad, and what should be the definition of AGR?**

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  - 4. If the semi-variable license fee structure is proposed, then what should be the minimum amount of license fee per annum for domestic channels (uplinked and downlinked in India), uplink only channels, and downlinking of foreign channels (uplinked from abroad)?**

&

- 5. If the fixed license fee structure is proposed, then what should be the license fee per annum for domestic channels, uplink only channels, and downlinking of foreign channels?**

**BTL's Response:**

1. Currently, all telecom operators and services are subjected to the uniform licence fee along with the concept of 'Adjusted Gross Revenue' wherein the payout (as prescribed by DoT) being made by one telecom operator to another is permitted as 'pass through charge'. Such a regime ensures that the national exchequer bears no loss of revenue, while also ensuring that operators are paying licence fee only on its own revenue rather than on the revenue of other operators.
2. DTH operators are paying 10% licence fee on their Gross Revenue including the payouts being made to the Broadcasters. In the present scenario, DTH operators are being made to pay licence fee effectively on the revenue of the Broadcasters given that the Broadcasters are not subjected to any revenue-based licence fee regime. Therefore, the concept of Adjusted Gross Revenue should also be introduced for DTH operators wherein the payments being made to Broadcasters and to the Government in the form of GST, entertainment tax, VAT, etc. should be excluded from AGR of DTH operators. The revenue of the Broadcasters should also be considered to be subjected to the same licence fee.

- 6. Should all TV channels, i.e. pay as well as FTA satellite TV channels, be broadcasted through satellite in encrypted mode? Please elaborate your responses with justification.**

**BTL's Response:**

We believe that the encryption of an FTA channel would increase its cost and operational complexity as this would require supply of IRDs to each distributor who wants to distribute that channel.

**Issues related to Teleports:**

7. **Whether specific definition of a teleport is required to be incorporated in the policy guidelines? If yes, then what should be the appropriate definition? Please elaborate responses with justification.**

**BTL's Response:**

In our view, teleport can be defined as the ground-based facility capable of uplinking to multiple satellites. Multiple licenses should not be required to uplink to multiple satellites, using a single facility.

8. **Is there any need to increase the amount of non-refundable processing fee to be paid by the applicant company along with each application for teleport license? If yes, what should be the amount of non-refundable processing fee? Please elaborate with justification.**

**BTL's Response:**

The purpose of collecting processing fee should be to recover the administrative costs towards the issuance of permission for teleport license. Instead of increasing the processing fee, the costs involved in processing of application should be optimized using technology.

Therefore, we do not suggest any change in the current processing fee.

9. **Should entry fee be levied for grant of license to set up teleport? If yes, what should be the entry fee amount? Please give appropriate justification for your response.**

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10. **What should be the license fee structure for teleport licensees? Should it be fixed, variable or semi-variable? Please elaborate if any other license fee methodology is proposed, with appropriate justification.**

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11. **What should be the rate of such license fee? Please give appropriate justification for your response.**

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12. **What should be the periodicity for payment of the license fee to the Government? Please support your answer with justification.**

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**13. What should be the periodicity for revision of the entry fee, and license fees rate for teleport licensees?**

**BTL's Response:**

We submit that Entry Fee and License Fee should not be levied on the Teleport operators. The operations and maintenance of teleport is capital-intensive with a long gestation period. Thus, it should not be burdened with high Entry Fee and License Fee.

Briefly stated:

- a. **Entry Fee:** The purpose of imposing Entry Fee is to stop the entry of non-serious players in the sector. Teleport operations is a capital-intensive business and requires massive investments in physical infrastructure. In addition to physical infrastructure, Teleport licensees have to bear the cost of hiring Satellite transponder bandwidth. Therefore, to meet the roll-out obligations, substantial investments are required and in case of a failure, Performance Bank Guarantee will be forfeited. The forfeiting of Performance Bank Guarantee, is a convincing deterrent against the entry of non-serious players in the sector as such players would not be able to fulfill the requirements pertaining to roll out of services. Thus, an entry fee should not be charged for Teleport. Alternatively, the amount of Performance Bank Guarantee can be raised to restrict the entry of non-serious players in the sector.
- b. **License Fee:** Teleport operators have access to limited number of entities such as MSOs, Cable Operators, etc. as their customers, due to high cost of customer equipment. This is on account of the fact that the Teleports operate in C-Band and thus, a larger receiving antenna is required. Therefore, 'one size fits all' approach cannot be prescribed in terms of levying license fee on Teleport Licensees, due to their limited addressable market size. It would thus be inappropriate to equate Teleport licensees to other communication systems for the purpose of imposing license fee.

Further, Teleport business is subjected to competition from international players and an increase in cost of uplinking from India may discourage players from availing uplinking services from India.

We therefore recommend that there should **not be any license fee** on Teleports

due to **capital-intensive** nature of the business, **limited addressable market** as compared to other communication systems and **competition from International** players.

### **Restriction on the number of teleports**

**14. Whether there is a need to restrict the number of teleports in India? If yes, then how the optimum number of teleports can be decided? Please elaborate your response with justification.**

**&**

**15. Whether any restriction on the number of teleports will adversely affect the availability or rates of uplinking facilities for TV channels in India?**

#### **BTL's Response:**

We believe that there is no need to restrict the number of teleports in India as this may create an artificial barrier. As mentioned previously, Teleport operations is a capital-intensive business, which prevents the entry of non-serious players, therefore, there is no requirement to put a restriction to the number of teleport operators.

Further, the market forces are sufficient as far as sustainability of teleports is concerned and there is no need to put restriction on the number of teleport licensees for ensuring economies of scale.

### **Location of teleports**

**16. What should be the criteria, if any, for selecting location of teleports? Should some specific areas be identified for Teleport Parks? Please elaborate your responses with justification.**

#### **BTL's Response:**

Present location of teleports is selected by players after considering various business feasibility and cost related aspects. Thus, freedom to select the place for setting up teleports is important to keep the costs in control.

Moreover, the present mechanism for the selection of the location for teleport set up is working well, as it involves various feasibility checks.

In view of the above, there is no need to identify specific areas for Teleport Parks.

### Optimum use of existing teleport infrastructure

#### **17. Please suggest the ways for the optimal use of existing infrastructure relating to teleports.**

##### **BTL's Response:**

The current process for approval of unlinking of TV Channels requires the endorsement of the TV Channel in teleport licence. Once MIB issues the Uplinking /Downlinking permission to the Broadcaster, the Broadcaster files for endorsement in Wireless Operating License of the Teleport Operator with WPC wing. The Teleport Operator also separately files the same for endorsement in Wireless Operating License with WPC wing. Post this, WPC grants the permission for endorsement based on the frequency assigned to the Teleport Operator.

**However, there is no defined policy for de-endorsement.** WPC's stated position has been that endorsement is based on the Broadcaster's request and MIB's permission. Hence, de-endorsement can be processed only based on Broadcaster's request and MIB's approval (Office memorandum dated 1<sup>st</sup> August 2012 issued by WPC, a permission letter from MIB and request from TV channel owner for deletion of TV channel is a must for de-endorsement of the TV channel from teleport license by WPC).

This position is advantageous to the Broadcaster, as they **continue to hoard the spectrum through continued endorsement, even without paying for the service subscription during business downturns.** This helps them in keeping the license operational in MIB and WPC books, while the Teleport Operator is unable to monetize the available spectrum.

Therefore, we propose the following as a solution to this concern:

- 1. Auto-termination of approval:** As MIB grants the Uplinking / Downlinking permission based on the agreement of parties. In case the agreements **have auto-expired, their approval should also stand auto-terminated.**
- 2. Doing away with Endorsement Process:** It suggested that as WPC is an integral part of approvals for operationalizing a Teleport service provider, it is an

unnecessary duplication of effort to endorse a customer on the bandwidth already operationalized for usage by WPC. The endorsement in current form becomes only a statistical exercise as grant of license is done by MIB (regulator) and the NOCC monitors the uplinked content.

The present process of endorsement results in inordinate delays for on-boarding or de-boarding of broadcasting channels, which creates an artificial operational inefficiency & restricts the industry to re-farm blocked capacity to improve overall industry health.

All Teleport operators have been allocated limited bandwidth by WPC on the teleport hub, and hence they can accommodate only a limited number of TV channels. The default on the payments by TV channels causes financial loss to the Teleport operator as no revenue is received from these channels. Further, these channels also occupy a significant amount of bandwidth, which restricts the inclusion of new/additional channels on account of bandwidth constraints leading to financial losses to teleport operators.

Considering the above, it is proposed that in the interim, Teleport operators should be allowed to discontinue the TV channels from uplinking, which do not make the necessary payments even after receiving disconnection notices. No consent for discontinuation should be required from the TV channel operator in such cases. Teleport operators should also be allowed to allocate the bandwidth of the discontinued channels to new/additional channels on immediate basis.

### **Unauthorised Uplink by Teleport operator**

**18. What specific technological and regulatory measures should be adopted to detect, and stop uplink of signals of non-permitted TV channels by any teleport licensee? Please elaborate your responses with details of solution suggested.**

#### **BTL's Response:**

We believe that the current Regulatory measures are sufficient to detect and stop the uplink of signals of non-permitted TV Channels by teleport licensee as the following Regulatory checks are already in place:

- NOCC monitors the content/channel being uplinked. Any non-compliance is duly detected.



- Each Teleport as per the licensing terms has to maintain the record of content uplinked from the facility for a period of 90 days, which can be checked for detecting any non-compliance.

**Any other issue**

**19. Stakeholders may also provide their comments on any other issue relevant to the present consultation.**

**BTL's Response:**

We submit that the requirement of maintaining the minimum net worth for Teleports should be removed. Our submissions in this regard are:

- Huge capital investments are made by the players for setting up the infrastructure as well as for meeting the operational costs. This leads to high fixed costs for running the business.
- On the other hand, reaching to a point of 100% capacity utilization takes time. Therefore, Teleport business cannot turn profitable immediately.
- Delay in the grant of approvals such as Registration of Channels with MIB further aggravates the situation.

Due to the above stated challenges, it becomes difficult for the entities to maintain net worth. Therefore, instead of the requirement to maintain a minimum net worth, the 'share capital' or equity infusion made by the players can be considered to be assessed.

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