BIF Response to TRAI CP on Inputs for formulation of National Broadcasting Policy-2024

Q1. Stakeholders are requested to provide their inputs in framing the Preamble, Vision, Mission and Broad Objectives for the formulation of the National Broadcasting Policy (NBP).

BIF RESPONSE

BIF wishes to thank the Telecom Regulatory Authority of India (TRAI) for this opportunity to provide feedback to the Consultation Paper on Inputs for formulation of National Broadcasting Policy (NBP).

Please find below our inputs towards the Preamble, the Vision, The Mission & the Broad Objectives towards the formulation of the National Broadcasting Policy.

Preamble

Broadcasting is the key constituent of India's dynamic Media & Entertainment (M&E) sector and holds immense potential for growth. There are 920 registered TV channels, 388 private radio channels, 63.52 Mn total active subscribers with Pay DTH Operators, 4 Pay DTH Operators, 332 Broadcasters, 1748MSOs, 81,706 LCOs, 427 operational Community Radio Stations(CRS) catering to 165 million TV households and over 200 million weekly radio listeners, but around 100 million households in India are yet to own a TV in India.

India's television industry stands at ₹70,900 crore in the year 2022 as compared to ₹72,000 crore in the year 2021, thereby registering a decline of around 1.5%. Subscription revenues account for a major share of the overall industry revenue. Subscription revenue has decreased from ₹40,700 crore in the year 2021 to ₹39,200 crore in the year 2022. Further, advertisement revenue has increased from ₹31,300 crore in the year 2021 to ₹31,800 crore in the year 2022.

The share of media and entertainment in overall gross domestic product (GDP) remains less than 0.9 percent in India, which is lower than the global average of 3-4 percent, and the Gross Value Added (GVA) of copyright-relevant industries is 0.58 percent of the Indian GDP compared to the international average of 5.48 percent.

An enabling policy framework can provide the much needed fillip for the broadcasting industry to capitalise on this potential and position India as a global leader in broadcasting, aligning with the Government's Vision of a USD 5 trillion Indian economy. The NBP can be an important tool for this growth, by bringing forth policy principles to guide the development of the sector and increase its contributions to the Indian economy.

Vision

To position India's broadcasting industry as a robust, sustainable and future-proof sector that is unmatched and globally recognised as a powerful customer oriented broadcasting hub by 2047, the milestone of India's 100 years of independence.

The combined impact of the broadcasting sector's direct and indirect economic contribution in the form of linkages to creation of a vibrant & innovative Indian economy, to live events, to brands and to sectors like tourism, as well as its palpable social contribution in terms of dissemination of information, knowledge, and entertainment, is already without parallel.

This Policy is envisioned as one with a strong sectoral growth-orientation, to reflect the need for broadcasting to truly break-out and achieve its global potential using our talent, our markets, the adoption of new and emerging technologies, as stepping stones. Combined with potent market forces and calibrated and agile but ex-post regulation, Indian broadcasting is unstoppable.

Mission

This policy intends to:

- Create a vibrant and resilient broadcasting sector anchored by an enabling ecosystem for content creation, that can meet the Indian citizen's diverse content preferences and receive news, reliable information, and high-quality entertainment in a variety of languages;

- Position India as a global hub for content production, export Indian content to the world, promote India as an optimal location for content creation, and develop technical capabilities in emerging technology areas like Animation and Visual Effects to meet global requirements for skilled labour;

- Position India as a manufacturing hub for broadcast technologies, export infrastructure and devices to the world, and to promote India as an optimum location to develop technology capabilities to meet the needs of skilled labour.

- Develop a globally competitive and growth-oriented broadcasting sector with enhanced ease of doing business, robust state-of-the-art infrastructure, seamless market entry, world-class distribution technology, enhanced content security, and a cooperative and collaborative ecosystem.

BROAD OBJECTIVES OF THIS POLICY

The Policy seeks to double the broadcasting sector's contribution to the Indian economy by 2047 in terms of revenue (as a share of GDP), employment, and

export value as a share of total exports. The following goals and objectives should be a part of the NBP.

Goal 1: Measuring the Broadcasting Sector's Contribution to the Indian Economy.

Goal 2: Increasing the Size and Scope of the Broadcasting Value Chain via Investment Promotion.

Goal 3: Building Sector-Specific Institutional Capacity to Address Existing and Emerging Concerns.

Goal 4: Easing the Business Environment with a Focus on Agile and Light-Touch Regulation.

Goal 5: Fostering the Growth of State-of-the-Art Broadcasting Infrastructure across All Relevant Supply Chains.

Goal 6: Making India the Content Hub for the World.

Goal 7: Encouraging Robust Audience Measurement towards Greater Transparency and Hygiene in TV and Radio Broadcasting.

Goal 8: Strengthening Grievance Redressal & Consumer Feedback Loops.

Goal 9: Reinvigorating the Public Broadcaster and Public Interest Programming.

Goal 10: Reimagining the Role of the Private Sector in Broadcasting.

Goal 11: Skill Development & Capacity Building in Keeping with Market Forces and New-Age Technological Needs.

Goal 12: Making India the manufacturing hub of the world.

Justification:

We wish to outline our preliminary observations and certain principles that form the basis of the Vision, Mission & Broad Objectives of the Draft National Broadcasting Policy

1. **Obligations of the Public and Private Sector Must Be Clearly Separated**
   Public broadcasters play a hugely important role in democratic societies, particularly in disseminating news and information. Given India's size and diversity, the growth and development of Prasar Bharati (and its Doordarshan and All India Radio services) is critical. India's public broadcaster has been a long-standing presence, operating to serve the objective of public duty. Given

Prasar Bharati's strong entrenched position, it is imperative not to impose overlapping mandates on the private sector. The Consultation Paper, through some of its stated objectives and issues for consideration, appears to push public broadcaster-like obligations on the entire sector. Blurring these important and distinct roles will limit the ability of the private sector to cater to the creative needs of the broadcasting industry and viewing community, and the additional burden on the sector, if imposed, will curtail its ability to grow.

a. For example, in our humble opinion, the objective of "ensuring affordable and universal reach of Broadcasting" is primarily one that state capacity must address. The cost and connectivity of private sector broadcasting services will be driven by different factors including business growth and diverse consumer demands. Prioritizing 'universal access' through services and infrastructure is and should always be the mandate of the public broadcaster only.

b. There are similar concerns with the objective of "Developing state-of-the-art R&D infrastructure for the broadcasting sector in India", through the creation of a R&D fund and Centre for Excellence. While the private sector has led the way for many innovations, national-level infrastructural developments must be driven by the state.

c. Additionally, the objective of "Capacity Building and Promoting Skill Development" for the sector is something that must be pursued in line with national employment and education policies, though as noted in the paper there is scope for partnerships between the government, industry and academia.

Content producers respond to consumer demand for plural and diverse content and fulfil its core social objectives organically. An inorganic requirement to mandatorily allocate and invest resources towards meeting the public broadcaster's objectives diminishes creative autonomy and the ability to cater to the diverse needs of consumers. Private content producers cannot stand in for the public broadcaster, which already receives statutory funding to produce content in public interest.

Public Service Broadcasting is the primary and exclusive remit of the public broadcaster, and Prasar Bharti-owned Doordarshan channels and All India Radio (AIR) should take the lead in public service broadcasting, achievement of social goals, and environmental responsibility. Section 12 of the Prasar Bharti Act lists the functions of the public broadcaster, and guiding objectives that it should follow. Social goals and other public related objectives in broadcasting fall squarely in the public broadcaster's domain, for which the lead and responsibility/ accountability ought to be shouldered by the public broadcaster.

The CP proposes an obligation on registered OTT services to carry DD channels to promote Indian content. MIB has also included this obligation under Section 6(1) of the publicly available Broadcasting Services (Regulation) Bill. Regulatory requirements to mandatorily allocate and invest resources for meeting public broadcasting objectives impact creative autonomy and the ability to cater to the diverse needs of OTT consumers. Examples cited in the CP like Prasar Bharati's MoU to carry DD channels in foreign jurisdictions is an example of a voluntary licensing agreement. Similarly, any agreement between private services and the public broadcaster should follow negotiations and licensing on fair, reasonable, and non-discriminatory terms as is common practice around the world.

The National Broadcasting Policy (NBP) should uphold the principle that Public Service Broadcasting remains dedicated to disseminating information related to national importance, promoting education, and preserving cultural diversity, without getting into the domain of commercial broadcasting. It is imperative that public service broadcasting serves the larger public interest and caters to the needs and aspirations of diverse communities.

2. **The NBP Must Acknowledge the Distinction Between Different Services**
   While the Background section of the paper states that the "broadcasting sector consists of television and radio services", the suggested framework includes digital media (both intermediaries and publishers of online curated content) and print media as "broadcasting services". As already discussed and articulated in several fora, we are of the considered opinion that Digital Intermediaries including Multimedia & Communication OTTs are already regulated by Meity under the relevant sections of the Information Technology Act, 2000 (IT Act, 2000). By bringing the same under MIB and the National Broadcasting Policy would lead to regulatory overlap and create needless confusion and challenges for the stakeholders.

   Further, one of the issues for consideration is "enabling convergence of IT, telecom and broadcasting". However, it is important to note that these are distinct sectors with differentiated regulation and legislation – with good reason. While the IT & Telecom sectors are distinct with their own independent set of regulations under separate policies viz. IT Act and Indian Telegraph Act 1885 (now replaced by the Telecom Act 2023), the NBP is an opportunity to create unique guidelines for the fast growing broadcasting sector, with a focus on creativity & innovation which is the founding pillar of broadcasting. The NBP should therefore address the leveraging of the IT & Telecom Sector investments and innovations in further expediting the broadcasting reach.

   The bundling of different services like cable TV and broadband in offerings to consumers has led to the assumption that there is a convergence of technology. However, there are still technical distinctions between telecom,

broadcasting, and digital services, including the infrastructure and mode of transmission, that justify their separate treatment. This is supported by a recent decision of the Telecom Disputes and Settlement Appellate Tribunal (TDSAT) which held that an OTT service is not a TV channel based on several distinctions between the two, and the separate laws that govern either service.[1]

The Ministry of Electronics and Information Technology (MeitY) has administrative jurisdiction over both intermediaries and Online Curated Content Providers (OCCPs) and regulates them under the Information Technology Act, 2000 and the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021. Similarly, the Department of Telecommunications oversees regulation of the telecom sector through the Indian Telegraph Act, 1885 (now replaced by the Telecom Act 2023) and other legislation.

Also it may be important to note that not only each of these policies is distinct for each sector but also each of these services is regulated by different line ministries viz. IT by MeitY, Telecom by DoT and Broadcasting by MIB. Upcoming laws in the form of the Rules under the newly promulgated Indian Telecom Act 2023, the Digital India Bill, and the Broadcasting Services Bill will likely draw these distinctions further. In our opinion, the NBP should acknowledge these distinctions rather than attempting to force-fit policy recommendations for three different types of services under the esoteric concept of convergence of IT, Telecom & Broadcasting services.

3. The NBP Should Outline Policy Principles and Avoid Prescriptive Measures

We recommend that the NBP should be a high-level policy framework, which lays down first principles which can be used later to develop rules and guidelines within the framework. This is particularly important as the broadcasting sector involves diverse stakeholders operating in a rapidly changing technological environment. Prescriptive measures or strategies will prevent the NBP from being a future-proof policy that can guide the broadcasting sector through the next techade and beyond.

For example, specific measures related to grievance redressal mechanisms need not be stipulated in the policy. The NBP should limit itself to outlining the objective behind including grievance redressal as part of a self-regulatory framework aligned to the Constitutional principles.

4. Goals Incidental to Broadcasting Should Be Excluded

---

[1] All India Digital Cable Federation vs. Star India Pvt. Ltd., Broadcasting Petition/217/2023, available at: https://tdsat.gov.in/Delhi/services/daily_order_view.php?filing_no=NDM2MzM=

Some of the objectives and issues in the Consultation Paper, while being worthwhile goals by themselves, are incidental to broadcasting. For example, the reasons for considering "Technology Innovation & Standardization" include meeting "national requirements including security needs and interoperability to avoid e-waste"; the section on "role of broadcasting during disaster" references disaster response and recovery; multiple broad social goals including workplace diversity and promoting certain types of content; and environmental responsibility. It is worth noting that the Government of India is already committed to harmonizing standards and to global goals of circular economy and net-zero, which are overarching. We therefore recommend that these goals not be focus areas of a policy dedicated to broadcasting and the growth of the sector, but can be implemented as part of other larger government or industry initiatives.

5. **The NBP should reduce the burden of heavy handed regulation on heavily regulated activities like TV distribution in line with 'Minimum Government' 'Maximum Governance'.**

DPOs are an essential for broadcasting value chain as they provide carriage services, unlike OTTs which do not engage in carriage services and rely on telecom infrastructure for the same. This calls for differential treatment for both. DPO's have raised demands for similar regulatory treatment for OTTs and called for more regulation on OTTs. We submit that the TRAI should instead look at deregulation of the broadcasting sector including aspects like license fee for DPOs and level down on heavily regulated activities.

Policy interventions have progressively liberalized regulatory frameworks in the interest of Ease of Doing Business. For example, the National Digital Communications Policy 2018 committed to "*remove regulatory barriers and reduce regulatory burden that hampers investments, innovation and consumer interest...".*[2]

The TRAI has always advocated for deregulation. TRAI has maintained forbearance on tariffs for cellular mobile services vide the 23rd Amendment to the Telecom Tariff Order on September 6, 2002. The TRAI's 2020 Recommendations on a Regulatory Framework for OTT Communication Services noted that "*any regulatory intervention may have an adverse impact on the industry as a whole"* and market forces should be allowed to operate.[3]

TRAI introduced economic regulations in the broadcasting sector to bring about effective competition in the sector. However, in its recommendations dated

[2] 8, Preamble to the National Digital Communications Policy 2018, available at: https://dot.gov.in/sites/default/files/2018_10_29%20NDCP%202018_0.pdf
[3] TRAI Recommendations on Regulatory Framework for Over-The-Top (OTT) Communication Services (2020), , para 2.4., available at: https://trai.gov.in/sites/default/files/Recommendation_14092020.pdf

October 1, 2004, TRAI recommended a sunset date for all price regulations once there is sufficient competition in the market.[4] The TRAI had said:

> *It must be emphasized that the regulation of prices as outlined above is only intended to be temporary and till such time as there is no effective competition. The best regulation of prices is done through competition. Therefore, as soon as there is evidence that effective competition exists in a particular area, price regulation will be withdrawn. TRAI will conduct periodic reviews of the extent of competition and the need for price regulation in consultation with all stakeholders."*

Today, DTH industry is reeling under excess regulation & complexity as well as a disbalanced regulatory framework, necessitating regulatory forbearance to restore the fundamentals of the industry and enable long term viability, sustainability and competitiveness. A mere patchwork solution won't suffice to avert future disruptions.

Presently, low-income households are finding traditional linear broadcast services increasingly costly, prompting a potential shift towards DD Free Dish. Similarly, middle-income families are downsizing their channel subscriptions, while affluent individuals, who once favoured PayTV, are gravitating more towards OTT platforms. *This trend underscores the pressing need for a comprehensive overhaul of the regulatory framework. Hence, it is imperative for market forces to be given room to operate.*

We urge TRAI to introduce forbearance in the Broadcasting Industry to revamp this sector. Most countries (Australia, Singapore, China, South Korea, Hong Kong, New Zealand, Thailand, etc.) have chosen to adopt a light touch regulatory approach to tariff regulations of channels and related market practices such as bundling unlike India.

Accordingly, we submit that the TRAI should recommend deregulation of both carriage and content aspects as principles in the NBP. The TRAI should also recommend periodic market assessments and review existing regulations on channel pricing and packaging.

6. The NBP should not prescribe any local quota requirements on TV or OTT content producers.

There is strong demand for local/regional content by the Indian audience. TV and OTT services have responded to the demand for Indian content with high levels of production investment, and content is widely available and accessible to consumers in India. Data on investment and availability of Indian content do not support the assertion of any market failure or the need for local content obligations.

Consumers have easy access to regional content on services which cater to niche regional audiences and regional language TV channels. The market share

---

[4] TRAI Recommendations on Issues relating to Broadcasting and Distribution of TV Channels. (2004) in Para 4.43., available at: https://www.trai.gov.in/sites/default/files/01octcable%5B1%5D.pdf

of regional OTT services increased from 47% in 2021 to 52% in 2023.[5] On TV, only 1% viewership is attributable to English. 56% of Indian TV viewership is in regional languages and 43% in Hindi.[6]

Market demand and healthy competition incentivises content producers to differentiate their offering and create regional OTT services and TV channels. Local content quotas are an inorganic market intervention that would diminish the unique selling point regional content services offer.

Further, technological developments like the availability of subtitles and audio in various Indian languages ensures that global content is easily accessible to Indian consumers regardless of the language that it is produced in.

(A) Economy Measures and Contribution

Q2. There exist data gaps in ascertaining contribution towards economy, revenue generation, employment generation, subscription figures etc. in the broadcasting sector which relies heavily on industry studies to carry out research and estimates. What should be the parameters, targets and institutional framework for measurement? Provide your comments with detailed justification. Also provide the indicative metrics used for calculating the targeted figures, if possible.

BIF RESPONSE

1) Commission economic research to estimate the sector's current and potential contribution to the GDP;
2) Quantify intangible contributions of broadcasting to the information and knowledge economy via qualitative methods;
3) Establish future targets for TV and radio, based on current estimates, in consultation with industry stakeholders and experts.
4) It is felt that many businesses and transactions which are broadcasting in nature are not recognized so due to lack of clarity and as such the contribution of broadcasting towards economy is not fully captured. There is a need for better institutional framework for accurate measurement of contribution of broadcasting to the economy for getting due recognition.

B) Universal Reach, Indigenous Manufacturing, Skill development and Startups ecosystem

Q3. Please suggest the strategies to be adopted by the Government and industry for propelling the growth of broadcasting sector w.r.t. the following: i. Provisioning of affordable television services in 'TV Dark'

---

[5] FICCI-EY, #Reinvent India's media & entertainment sector is innovating for the future (2024), available at: https://assets.ey.com/content/dam/ey-sites/ey-com/en_in/topics/media-and-entertainment/2024/ey-in-india-s-media-entertainment-sector-is-innovating-for-the-future-03-2024-v1.pdf

[6] Ibid.

households; ii. Augmenting R&D capabilities and promoting indigenous manufacturing of broadcasting equipment; iii. Employment generation with emphasis on skill development; iv. Promotion of innovation led Start-ups and SMEs; v. Any other related area/strategy Please elaborate with detailed reasoning.

BIF RESPONSE

BIF has proposed two alternate approaches

1. DTT2M (D2M)

    i.   Provisioning of affordable television services in 'TV Dark' households;

        a. India is a mobile first country, where the fixed line subscription (including cable) is dwarfed by mobile subscription. The policy should provide enabling framework in addressing Digital Terrestrial Television to Mobile (DTT2M) devices, by bringing in a framework that is based on market forces and is beneficial and acceptable to the consumers.

        b. Focus should be on policy framework for substantial public-private investment that could result in a win-win approach for all.

        c. Policy makers should focus on broad consultations, and rely on cost-benefit analysis of alternate technologies and solutions before adopting any such technology/solution**.**

2. Private DTH Services in inaccessible areas

To tackle the challenge of television dark households, currently numbering at 100 million homes, we propose a holistic approach aligned with the overarching goal of achieving nationwide connectivity. We recommend that private DTH operators should be empowered to introduce innovative services, akin to DD Free Dish, to also increase television penetration in rural and remote areas where Pay TV services might not be as prevalent.

This strategic initiative not only aims to foster a more inclusive television ecosystem in underserved regions but also seeks to rejuvenate the DTH industry within a timeframe of three to five years. By enabling private entities to cater to these segments, we envision a future where television access is more widespread, bridging coverage gaps and enriching the viewing experience for all.

In addition to the above, the following strategies will also foster a more inclusive television landscape:

- Both broadcasters and DPOs should explore introducing affordable Free-To-Air (FTA) package options to make television services more accessible to a wider demographic section.
- Implementing tailored pricing and bundling strategies for rural markets can help narrow the accessibility gap in these regions.
- Encouraging the reactivation of inactive set-top boxes through incentive schemes can also help expanding television access. By leveraging dormant resources, we can effectively extend the reach of television services without significant infrastructure investments. Developing curated content bundles

specifically tailored for underpenetrated markets will ensure that programming aligns with the diverse preferences and requirements of these communities.

- There is a need of policy support for converting TV Dark homes to TV homes as much as possible for the benefit of deprived population. This would also benefit both Government and broadcast industry as Government would be able to disseminate its welfare schemes to those homes and the broadcast industry would get new audience

ii. **Augmenting R&D capabilities and promoting indigenous manufacturing of broadcasting equipment;**
1. Provide infrastructure status to broadcasting distribution platforms and services to accelerate infrastructural convergence in consonance with the NDCP 2018;
2. Explore production linked incentives for manufacturing of high-value broadcasting equipment in consonance with the goals of the National Policy on Electronics;
3. Identify underpenetrated areas to expand connectivity and access to broadcast channels, via fiscal support;
4. Engage with research institutions to explore emerging broadcast technology and their use-cases, and encourage research on technologies for better network management and quality of service;
5. Assess future bandwidth requirements in consultation with broadcasting sector stakeholder, in order to ensure orderly spectrum management;
6. Participate in Global Standards Bodies developing broadcast technologies and contribute to the technology;
7. Establish Centres of Entrepreneurship (COEs) and technology incubators focusing on AVGC related technology at Software Technology Parks of India (STPI);
8. Partner in skill development avenues akin to DoT and MeitY for telecommunication and electronics manufacturing;
9. Enable sandbox testing of emerging broadcast technologies.

iii. **Employment generation with emphasis on skill development;**
1. Engage with relevant skill councils to continually encourage the addition and review of Qualification Packs (QPs) and National Occupational Standards (NOS), and aim to harmonise these with international standards in areas such as digital skilling in keeping with the New Delhi Declaration of the G20;
2. Establish upskilling programmes with reputed educational and vocational institutions and help establish National Centres for excellence in AV technologies and production techniques in such institutions;
3. Identify public institutes like the SRFTI and FTII and partner with private institutes to set up specialized courses for training professionals working in emerging areas in the TV, distribution, and radio industries.

iv. Promotion of innovation led Start-ups and SMEs-

Policy must encourage startups & MSMEs for innovation which is about developing new technologies, products, solutions, processes or even new business models and/or ways of delivering broadcasting services in a new manner.

There is need for policy support for some specialized content especially kids programme and cultural based programming which has the potential for export and also give strategic advantage to the country for promoting its culture across the globe.

C) India as a Content and Uplinking Hub

Q4. What other policy and regulatory measures should be adopted in the policy for creation and expansion of quality Indian content to make India the 'Global Content Hub'? Further, suggest how to extend support to local talents and content developers in terms of training, infrastructure and incentives. Provide your comments with detailed explanation.

BIF RESPONSE

One of the goals of the NBP recommended by BIF is 'Making India the Content Hub for the World'.
(Rationale: Smaller countries like South Korea have succeeded in propagating their broadcasting industries, talent, and soft power across the world. While India has designated AV services as a Champion Sector for Export of Services, there is large untapped scope for state-supported growth via incentives, regulatory forbearance and better design, enforcement and upgradation of IP regimes etc)

Strategies

1) Explore the prospects of setting up content clusters or content export zones through which fiscal and infrastructural benefits can be passed on to the creative economy;
2) Offer tax subsidies and other incentives to regional, national, and foreign content producers for local production in India;
3) Position tourist spots and locations as ideal locations for production and create linkages between state-level tourism and film policies;
4) Work with state governments to create effective single-window processes for clearance of production related permissions and incentives for content production;
5) Expand the scope of bilateral agreements with foreign countries to facilitate co-production agreements for production and film festivals;
6) Set up a dedicated National Centre of Excellence for AVGC-XR to generate employment, IP, and enhance the potential of AVGC-XR;
7) Review co-production treaties with other countries and other film production incentives to include AVGC-XR production;
8) Undertake initiatives for combating piracy and provide broadcast-specific deterrent measures in the reforms to the Cable Television Networks (Regulation) Act, 1995;

9) Maintain an "Infringing Websites and Mobile Applications list for administrative takedown and enforcement action against violation of copyright;

10) Support the review and updating process of the National IPR Policy, particularly with a view to identify modernisation requirements for the IP regime to keep pace with technological changes;

11) Support research on technological standards for encryption and reliable communication in collaboration with the BIS and other relevant standard-setting bodies;

12) Develop model enforcement codes / standard operating procedures to address piracy risks across different broadcast platforms and services, and disseminate to law enforcement agencies;

Q5. Suggest the measures to promote the uplinking of television channels owned by foreign companies from India, which is now permitted by the Government to make India an 'Uplinking Hub'.

BIF RESPONSE

Promoting the up linking of television channels owned by foreign companies from India to establish it as an 'Uplinking Hub' requires a comprehensive approach involving regulatory, infrastructural, and promotional measures. Here are some measures that can be taken:

Streamlined Regulatory Framework: There is a need to simplify and streamline the regulatory approval process for Uplinking television channels owned by foreign companies.

There is a need to provide clear guidelines and criteria for obtaining Uplinking permissions, ensuring transparency and ease of compliance.

Incentives and Benefits:

Government may offer incentives such as tax breaks, subsidies, or other financial benefits to attract foreign companies to uplink their channels from India.

Provide special incentives for companies that contribute to the development of the local broadcasting ecosystem, such as investing in local content production or skill development.

Promotional Activities:

Launch promotional campaigns to showcase India as an attractive destination for Uplinking television channels, highlighting its strategic geographical location, advanced infrastructure, and regulatory advantages.

Participate in international broadcasting events and trade shows to promote India as a hub for satellite Uplinking services.

International Collaboration:

The assistance of international organizations like ABU, and EBU may be sought to tap newer market.

Foster partnerships and collaborations with foreign regulatory authorities and industry associations to facilitate the Uplinking of television channels owned by foreign companies from India.

Negotiate bilateral agreements or Memorandum of Understanding (MoU's) with other countries to promote cross-border broadcasting activities and regulatory cooperation.

Supportive Ecosystem: Facilitate collaborations between foreign and domestic companies to leverage each other's strengths and foster innovation in broadcasting technologies and content creation.

By implementing these measures, India can position itself as an attractive destination for uplinking television channels owned by foreign companies, thereby establishing itself as a leading 'Uplinking Hub' in the global broadcasting landscape.

Our detailed inputs and comments to the ULDL Guidelines are attached herewith in Annexure I.

D) Public Service Broadcasting

Q6. What broad guiding principles, measures and strategies should be considered in the NBP to strengthen India's public service broadcaster (i.e. Prasar Bharati) to promote quality content creation, dissemination of DD and AIR channels and maximizing its global outreach? Also suggest, what support and measures should be provided for the proliferation of television and radio broadcasting services provided by the public service broadcaster in fulfilment of its mandate?

BIF RESPONSE

One of the key Goals envisaged in the NBP is 'Reinvigorating the Public Broadcaster and Public Interest Programming'
(Rationale: There is a need to stem the propensity of public authorities to pin public interest obligations on private entities. This can be achieved, in part, by strengthening the capacities and capabilities of the public broadcaster -- Prasar Bharati.)

Strategies
1) Enable Doordarshan and All India Radio (AIR) to enhance and expand public interest programming in regional languages and across new mediums;
2) Bolster content production on themes of national importance listed in Section 12 of the Prasar Bharati Act and disseminate through TV and radio;
3) Establish a standard operating protocol for production and dissemination of content during natural disaster emergencies;

4) Explore more public-private partnerships and enable new modes of market-based partnership for content sourcing and creation on themes of national importance and engender diversity of views;

5) Further decentralise content production by the public broadcaster to develop engaging programmes in regional languages for local audiences, and review regional content creation performance regularly;

6) Strengthen transmission and reception infrastructure at the border and remote areas;

7) Explore more public-private partnerships and enable new modes of market-based partnership for infrastructure sharing and reusing;

8) Audit and assess the scope for utilizing unused and underused spectrum;

9) Explore the prospects of new monetisation models including via content development funds, subscription fees for niche programming and other such methods, via a high-level committee;

10) Create a Standard Operating Procedure for commissioning and acquiring content to engender greater certainty in commercial processes and give primacy to intellectual property of creators;

11) Continue to expand international outreach through agreements with national broadcasters in other countries;

12) Enable CRS (Community Radio Stations) to source news and current affairs from AIR and translate and transmit in local languages and dialects;

13) Create a roadmap for expansion of CRS in collaboration with the National Disaster Management Authority (NDMA) and a standard operating protocol for use of CRS during emergency situations;

14) Create a roadmap for disaster resilience and environmental sustainability of terrestrial and satellite communications infrastructure used for public-sector broadcasting;

15) Prasar Bharati has been facing crunch of trained manpower especially programme personnel and would like Government to take necessary urgent steps to address this issue. This would help reinvigorate public broadcaster. Further, there is also a need to restructure Prasar Bharati to keep pace with current broadcasting trends which should be paid due attention.

E) Various Segments of the Sector

Q7. What policy measures and regulatory aspects should be adopted in the NBP to nudge the growth of Indian regional content through OTT platforms?

BIF RESPONSE

The NBP should not prescribe content quotas on OTT services.

OTT services tailor their production strategies to meet consumer demand, and there is strong demand for local/regional content by the Indian audience. OTT services have responded to the demand for Indian content with high levels of

production investment, and content is widely available and accessible to consumers in India. The 2024 edition of the FICCI EY Media and Entertainment report reveals that in 2023, regional OTT volumes exceeded Hindi language content for the first time. The same report also indicates that the share of vernacular content produced in India is set to increase to 55% of total content produced.

Thus, data on investment and availability of Indian content on OTT platforms does not support the assertion of any market failure or the need for prescribing any local content obligations.

- OTT services meet the demand for availability of multilingual content by providing subtitles and audio in various Indian languages. This ensures that global content is easily accessible to Indian consumers regardless of the language that it is produced in.
- The market share of regional OTT services increased from 47% in 2021 to 52% in 2023.[7] Consumers have easy access to regional content on services which cater to niche regional audiences. Market demand and healthy competition incentivises regional platforms to differentiate themselves. Local content quotas are an inorganic market intervention that would diminish the unique selling point regional content services offer.
- Increased investment in local content is an organic market response to competition for eyeballs. This is because catering to consumer preferences is key and offering unrelatable content can lead to a loss of subscribers. Complete creative control has allowed OTT streaming platforms to offer diverse content slates that cater to varying consumer preferences. Mandatory impositions to create certain kinds of content (local content, in the NBP's case), can endanger this creative freedom and stifle growth. A negative impact on growth can have a direct effect on jobs, development of hardware and software capacity, and other contributions to the Indian economy.

    Quota requirements do not produce the intended effect and harms India's prospects of becoming a global content hub. Protectionist policies like quotas can have the following downsides:

- Quotas can deter the development of the local industry, since they prevent open and fair competition.[8] A lack of competition reduces incentives to innovate and improve efficiency, leading to stagnation. It can also reduce product variety and quality.[9] Frontier Economics' analysis indicates that policies like quotas lead to a reduction in the export of audio-visual

---

7   https://assets.ey.com/content/dam/ey-sites/ey-com/en_in/topics/media-and-entertainment/2024/ey-in-india-s-media-entertainment-sector-is-innovating-for-the-future-03-2024-v1.pdf

8   https://www.koreatimes.co.kr/www/opinion/2024/04/638_268177.html

9https://www.mpa-apac.org/2021/10/local-content-production-and-sensible-regulation-new-studies-demonstrate-the-close-relationship/

products, with countries that have greater policy restrictions tending to have lower levels of investment in content.

- They can distort market dynamics by artificially limiting supply, preventing markets from developing naturally. For example, the Korean government abolished a screen quota after it left cinema halls empty due to lack of available films.[10]

The NBP should not mandate OTT services to carry DD channels.

The CP proposes an obligation on registered OTT services to carry DD channels to promote Indian content. MIB has also included this obligation under Section 6 (1) of the publicly available Broadcasting Services (Regulation) Bill. Regulatory requirements to mandatorily allocate and invest resources for meeting public broadcasting objectives. Such mandates impact creative autonomy and the ability to cater to the diverse needs of OTT consumers. Examples cited in the CP like Prasar Bharati's MoU to carry DD channels in foreign jurisdictions is an example of a voluntary licensing agreement. Similarly, any agreement between private services and the public broadcaster should follow negotiations and licensing on fair, reasonable, and non-discriminatory terms as is common practice around the world.

Q8. What new strategies and measures should be envisaged in the policy for the film industry to enhance audience engagement, infrastructure development, upskilling artists, reduce piracy, increase foreign direct investment or any other aspect? What steps are required to make India a preferred filming destination? Provide your comments with detailed justification.

BIF RESPONSE

No Comments

Q9. Online gaming being a rising sector holds potential for contributing to economy, what policy and regulatory aspects should be adopted for the orderly growth of online gaming in India? Further, suggest measures to support local game developers to compete and grow. Also suggest safeguards to protect general public (especially underage players) from negative and psychological side effects, while promoting healthy gaming.

BIF RESPONSE

"*Online gaming being a rising sector holds potential for contributing to the economy, what policy and regulatory aspects should be adopted for the orderly growth of online gaming in India? Further, suggest measures to support local game developers to compete and grow. Also suggest safeguards to protect the*

---

[10]https://www.mpa-apac.org/2021/10/local-content-production-and-sensible-regulation-new-studies-demonstrate-the-close-relationship/

general public (especially underage players) from negative and psychological side effects, while promoting healthy gaming."

1. **Online gaming is driving innovation, investment & economic growth across the digital economy**

The online gaming sector in India is booming, with a whopping 42.5 crore gamers, making it the world's second-largest gaming community after China. Highlighting the sector's potential, Prime Minister Modi has underscored its capacity to bolster initiatives like "Create in India" and elevate "Brand India" on the global stage. His vision is to position India as a leading global hub for game developers and gaming services, leveraging the immense opportunities presented by this burgeoning industry.

The Indian gaming market is estimated to have reached a market size of INR 16,428 crore in FY23 and is expected to reach a market size of INR 33,243 crore in FY28, showing a 15% CAGR. The sector has also attracted investments, from global and Indian sources, worth INR 22,931 crore between FY20 and FY24. In terms of employment, the industry has emerged as a significant contributor, directly employing around 1 lakh individuals, including developers and programmers, a number expected to reach 2.5 lakh by 2025.

Furthermore, gaming revenues contribute substantially to the exchequer, adding to the government's coffers and supporting various developmental initiatives. Between FY24 and FY28, the sector will contribute INR 6,800 crore as direct tax revenue and INR 76,000 crore as indirect tax revenue.

However, despite its substantial user base, India currently accounts for only about 1% of the global gaming market, highlighting the untapped potential awaiting exploration. To fully unlock the sector's true potential and attract investments, a uniform and stable regulatory framework is imperative. Regulatory clarity is vital to instill confidence among investors and stakeholders, ensuring a conducive environment for sustainable growth and innovation within the industry.

2. **Online real money gaming is only available to play for adults**

The online gaming industry is bifurcated into online real money gaming and non-real money gaming. Within online real money gaming, there are various gaming intermediaries offering different formats of gameplay. It is important to emphasize that online real money gaming is strictly limited to adults and all online real money gaming intermediaries have universally implemented age gating practices. By enforcing age gating measures, online gaming intermediaries prioritize consumer protection and regulatory compliance within the online gaming ecosystem.

3. **Legitimate Indian online gaming intermediaries have adopted voluntary measures for enhancing user protection**

Online gaming intermediaries through industry associations have voluntarily adopted code of ethics for implementing responsible gaming practices and ensuring adequate and effective user safeguards are in place. The voluntary code of ethics has been drafted considering international best practices around responsible gaming practices, protection of minors, fair gaming policies, financial

safeguards, responsible advertising, and other measures aimed at ensuring the delivery of safe, secure, and reliable gaming services.

4. Online gaming is at the core of the Animation, Visual, Gaming and Comics Sector

The Ministry of Information and Broadcasting in their Draft Model State Policy for Animation, Visual, Gaming and Comics (**AVGC**) sector highlighted that gaming industry is at the core of the AVGC sector, and drives growth across its entire ecosystem.[11] Therefore, although gaming contributes to the expansion of the broader Media and Entertainment sector, it stands as a distinct category as part of the AVGC sector. As per EY report[12], online real money gaming sub-segment constitutes a substantial part of the online gaming ecosystem, comprising 82.8%8 of the market share in FY23.

5. Involvement of money does not change the nature of online game

It is important to note that online gaming can be games played with or without money as also identified in the IT Rules. IT Rules defines online real money game as "'*online real money game' means an online game where a user makes a deposit in cash or kind with the expectation of earning winnings on that deposit."*

It is imperative to underscore that the presence of money does not fundamentally change the nature of the game or the elements of skill and/or chance involved in it. Rather, the decisive factor in determining whether a game constitutes gaming or gambling lies in the predominance of skill over chance. This criterion serves as the litmus test for distinguishing between the two as per the established legal jurisprudence in India through various supreme court judgements.

6. Policy and regulatory aspects should be adopted for the orderly growth of online gaming in India

It is noteworthy that the Central Government, through multiple ministries, has been implementing robust measures to establish a strong regulatory framework for online gaming in India.

a. Ministry of Electronics and Information Technology

Government established in May 2022an Inter-Ministerial Task Force (IMTF) composed of a seven-member panel. The task force was tasked with formulating regulations for the online gaming industry and designating a nodal ministry to oversee the sector. The seven-member panel comprised key figures, including the CEO of the government think-tank Niti Aayog, along with Secretaries from the Ministries of Home Affairs, Revenue, Industries and Internal Trade, Electronics and Information Technology, Information and Broadcasting, and Sports. After conducting numerous stakeholder consultations, the IMTF submitted its findings

---

[11]https://mib.gov.in/sites/default/files/Annexure%20D_Draft%20Model%20State%20Policy%20for%20AVGC-XR%20Sector.pdf

[12]https://assets.ey.com/content/dam/ey-sites/ey-com/en_in/topics/media-and-entertainment/2023/12/ey-new-frontier-online-gaming-report.pdf

to the Cabinet Secretary. The report recommended that the MeitY be designated as the nodal ministry responsible for overseeing the online gaming sector. On December 23, 2022, amendments were made to the Government of India (Allocation of Business) Rules, 1961. These amendments officially appointed MeitY as the designated nodal ministry responsible for overseeing all matters concerning online gaming.

MeitY took a significant step forward by issuing a notification dated April 6, 2023, amending the IT Rules, thereby establishing a regulatory framework for online gaming intermediaries.

The regulatory framework consists of a three-tiered approach:

a. **Tier 1** involves self-compliance, due diligence, and grievance redressal by the online gaming intermediary itself;
b. **Tier 2** comprises Self-Regulatory Bodies ('**SRBs'**) designated by MeitY.
c. **Tier 3** comprises MeitY and Grievance Appellate Committee. SRBs operate with limited government oversight by MeitY, aiming to strike a balance between industry autonomy and regulatory supervision. Further, an appeal against the decision of Grievance Officer of SRB can lie with the Grievance Appellate Committee.

According to the IT Rules, MeitY will designate SRBs responsible for, *inter alia,* certifying and verifying online games as permissible online real money games. The process of notifying SRBs is currently underway. Once SRBs are appointed and the IT Rules are enforced, only online games registered with these bodies will be permitted to operate. SRBs will be obligated to certify and verify only those games that do not amount to wagering on any outcome i.e. are not in the nature of betting and gambling but predominantly skill based games. Additionally, SRBs are mandated to introduce a framework aimed at safeguarding users from the risks of addiction, financial loss, and other detrimental effects associated with online gaming. **However, SRBs are yet to be notified by the Ministry, indicating that this aspect of the regulatory framework is still in progress.**

b. Ministry of Home Affairs

Section 69A empowers the Central Government to direct any agency of the Government or intermediary to block for access by the public any information generated, transmitted, received, stored or hosted in any computer resource if it considers it necessary to do so in the interest of sovereignty and integrity of India, defence of India, security of the State, friendly relations with foreign States or public order. MeitY on recommendations from the Ministry of Home Affairs ('MHA') have exercised its powers under Section 69A to block more than 230 illegal betting, gambling apps.

c. Ministry of Information and Broadcasting

The Ministry of Information and Broadcasting has issued multiple advisories to newspapers, digital news publishers, and private satellite TV channels, urging them to refrain from publishing advertisements promoting online betting and gambling platforms.

d. Ministry of Consumer Affairs

The Ministry of Consumer Affairs also recently issued an advisory stating that any advertisement or endorsement, whether directly or indirectly, of activities which are otherwise prohibited by law, including but not limited to betting or gambling, through advertisements or promotions, shall be subject to rigorous scrutiny.

e. Ministry of Finance

The Central Government, through The Finance Act, 2023, introduced amendments to the Income Tax Act, 1961, to establish distinct treatment for online gaming separate from that of gambling and betting. This includes provisions for the deduction of Tax Deducted at Source (TDS) and Income Tax on winnings from online gaming. These amendments signify the government's commitment to providing a structured and regulated environment for the online gaming industry while ensuring proper taxation procedures are in place. The Ministry of Finance has recently also issued an amendment to GST Law effective 1st October, 2023 wherein all online gaming is liable to pay GST @28% on face value of every deposit.

f. Advertising Standards Council of India

In contradistinction to the aforesaid illegal advertisements of online betting and gambling platforms, advertisements pertaining to online gaming for real-money winning are scrutinized by the Advertising Standards Council of India ('**ASCI**'). For instance, ASCI's Guidelines for 'Online Gaming for Real Money Winnings' push for inclusion, in advertisements for online real money games, of appropriate and prominent disclaimers which make consumers aware of the financial risks involved in such games. While the ASCI is admittedly a self-regulatory body, advertisements for online real money games which do not comply with ASCI's guidelines may, pursuant to ASCI's recommendations, nonetheless attract rigorous scrutiny from the MIB as well.

Submission:

In light of the above, we would like to **highlight the following key takeaways w.r.t gaming industry:**

1. MeitY, as the designated nodal Ministry for online gaming, laid out robust and comprehensive regulatory framework by amending IT Rules 2021. The pressing need now is to bring these rules into operation to ensure responsible growth of the industry while safeguarding consumer interests.
2. The online gaming sector encompasses both real money and non-real money games, with stringent age verification measures in place to restrict access to adults only in real money gaming.
3. Illegal offshore operators causing user harm and are not accountable to them nor complying with the Indian law. This problem can be solved only through the implementation of the MeitY online gaming rules and by establishing the Self-Regulatory Bodies (SRB) those will register the legitimate skill based gaming companies.

4. The Ministry of Information and Broadcasting, Ministry of Consumer Affairs and ASCI have issued various guidelines to prevent advertisement of online betting and gambling platforms, however there is a need for stronger legal enforcement. Thus, to give such advisories a force of law, MeitY may consider inserting specific obligations under Code of Ethics in Part III of the IT Rules to prohibit publishers from running such advertisements, surrogate or otherwise.
5. Online gaming is at the core of the AVGC sector. To ensure holistic development and regulation, the prompt finalisation and notification of a national AVGC policy is essential, accompanied by dedicated oversight and coordination between state and central governments.
6. Legitimate Indian online gaming intermediaries are actively embracing responsible gaming practices. Intermediaries through industry associations have adopted voluntary codes of ethics covering areas such as advertising, financial risks, and responsible gaming to enhance consumer protection.

Q10. What further steps and initiatives should be adopted by the Central and State Governments and the industry for the growth of animation, VFX and post-production segment? Provide your comments with detailed reasoning and justification.

BIF RESPONSE

Please refer to our earlier Response to Q9 above

Q11. What strategies and measures should be included in the policy for the music segment to enhance infrastructure development, upskilling artists, financial certainty and to resolve other challenges being faced by artists? What steps should be taken to encourage the global promotion of Indian music and artists? Please provide your comments with detailed reasoning.

BIF RESPONSE

No Comments

Q12. What measures and strategies should be included in the National Broadcasting Policy to encourage expansion and ensure orderly growth and sustainability of FM Radio Stations and Community Radio Stations in the various cities of country including hilly and border areas? In what ways the policy can facilitate the integration of digital radio technologies into the existing FM radio infrastructure to improve audio quality, functionality and spectrum efficiency?

BIF RESPONSE

No Comments

F) Policy and Regulations

Q13. With the continuous advancement of technologies and convergence of the telecom, information technology and broadcasting sectors, what policy and regulatory measures are required, beyond the existing ones, to facilitate the growth of the broadcasting sector with ease of compliance? Elaborate your comments with proper reasoning and justifications to the following issues: i. To enable healthy and competitive environment amongst the existing and emerging services and ensuring parity among comparable distribution mediums, while being technology neutral. ii. To allow and encourage infrastructure sharing among the players of broadcasting and that with the telecommunication sector. iii. Any other suggestion for policy and regulatory framework.

BIF RESPONSE

With respect to the issue of convergence between Telecom, IT & Broadcasting Sectors and how it should be dealt with in the NBP, we wish to state the following

The NBP should restrict its coverage to the broadcasting sector and exclude OTT services from its scope.

The National Broadcasting Policy (NBP) extends its scope to Over-the-Top (OTT) services and other segments of the Media and Entertainment (M&E) landscape like gaming and music. OTT services are not a part of the broadcasting ecosystem since they are functionally distinct from TV and radio broadcasting that involves a combination of carriage and content. TV broadcasters transmit their content to consumers through Distribution Platform Operators (DPOs) and OTT services send data over IP networks, like any other information exchange over the internet.

Moreover, TRAI regulates carriage, and its remit extends to authorized entities under the Telecommunications Act, 2023 and registered cable network under the Cable Television Networks (Regulation) Act, 1995 (CTN Act) as per Section 59 of the Telecommunications Act. OTT services do not fall under the definition of 'telecommunication' or 'telecommunication services' under the Telecommunications Act, 2023 and are not authorised entities under it. Neither do they require registration under the CTN Act. The MIB's reference letter does not mention OTT services. **In this context, the inclusion of OTT services as a whole and Online Curated Content Providers as a subset, is unwarranted.**

Industry stakeholders had highlighted these issues in the pre-consultation and requested the regulator to exclude OTT services from the scope of the NBP, but the current CP includes questions on OTT services. We humbly wish to differ in this regard as:

- TV broadcasting and OTT markets are at different stages of development. OTT is a sunrise sector with potential for growth and in a position to contribute positively towards India's digital economy. It needs a growth-oriented forward-looking policy approach. On the other hand, TV broadcasting requires a long term policy coupled with a growth oriented action plan for the overall growth of the sector .

- Infrastructure pipes for delivery of broadcasting and OTT services are distinct and require distinctly unique treatment by way of policy / regulatory oversight.
- Television is a push-based medium, and consumers view content at a time and schedule decided by the broadcaster. OCCPs are pull-based, where consumers decide the time and content they want to watch from a library of available content.
- Friends and family view TV together. A survey by BIF and CUTS International found that 38 per cent of respondent consumers watch TV as a family bonding exercise while users view OTT services on their smartphones.

For these reasons, we recommend that the NBP should restrict its coverage to the broadcasting sector and exclude OTT services from its scope.

(i) The NBP Must Acknowledge the Distinction Between Different Services
While the Background section of the paper states that the "broadcasting sector consists of television and radio services", the suggested framework includes digital media (both intermediaries and publishers of online curated content) and print media as "broadcasting services". As already discussed and articulated in several fora, we are of the considered opinion that Digital Intermediaries including Multimedia & Communication OTTs are already regulated by MeitY under the relevant sections of the Information Technology Act, 2000 (IT Act, 2000). By bringing the same under MIB and the National Broadcasting Policy would lead to regulatory overlap and create needless challenges for the stakeholders.

Further, one of the issues for consideration is "enabling convergence of IT, telecom and broadcasting". However, it is important to note that these are distinct sectors with differentiated regulation and legislation – with good reason. While the IT & Telecom sectors are distinct with their own independent set of regulations under separate policies viz. IT Act and Indian Telegraph Act 1885, the NBP is an opportunity to create unique guidelines for the fast growing broadcasting sector, with a focus on creativity which is the founding pillar of broadcasting.

The bundling of different services like cable TV and broadband in offerings to consumers has led to the assumption that there is a convergence of technology. However, there are still technical distinctions between telecom, broadcasting, and digital services, including the infrastructure and mode of transmission, that justify their separate treatment. This is supported by a recent decision of the Telecom Disputes and Settlement Appellate Tribunal (TDSAT) which held that an OTT service is not a TV channel based on several

distinctions between the two, and the separate laws that govern either service.[13]

The Ministry of Electronics and Information Technology (MeitY) has administrative jurisdiction over both intermediaries and Online Curated Content Providers (OCCPs) and regulates them under the Information Technology Act, 2000 and the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021. Similarly, the Department of Telecommunications oversees regulation of the telecom sector through the Indian Telegraph Act, 1885 and other legislation.

Also it may be important to note that not only each of these policies are distinct for each sector but also each of these services are regulated by different line ministries viz. IT by MeitY, Telecom by DoT and Broadcasting by MIB. Upcoming laws in the form of the Indian Telecommunication Bill, the Digital India Bill, and the Broadcasting Services Bill will likely draw these distinctions further. In our opinion, the NBP should acknowledge these distinctions rather than attempting to force-fit policy recommendations for three different types of services under the esoteric concept of convergence of IT, Telecom & Broadcasting services.

(ii) The NBP Should Outline Policy Principles and Avoid Prescriptive Measures

We recommend that the NBP should be a high-level policy framework, which lays down first principles which can be used later to develop rules and guidelines within the framework. This is particularly important as the broadcasting sector involves diverse stakeholders operating in a rapidly changing technological environment. Prescriptive measures or strategies will prevent the NBP from being a future-proof policy that can guide the broadcasting sector through the next techade and beyond.

For example, specific measures related to grievance redressal mechanisms need not be stipulated in the policy. The NBP should limit itself to outlining the objective behind including grievance redressal as part of a self-regulatory framework aligned to the Constitutional principles.

(iii)The NBP should clarify the distinction between content and carriage as lack of the same could inadvertently lead to inconsistencies in implementation.

Providing carriage/distribution services and content/programming services are distinct activities and require different regulatory approaches. The NBP should clearly outline the two. Referring to the Draft NBP, it follows an entity-based

---

[13] All India Digital Cable Federation vs. Star India Pvt. Ltd., Broadcasting Petition/217/2023, available at: https://tdsat.gov.in/Delhi/services/daily_order_view.php?filing_no=NDM2MzM=

classification for "broadcast network operators" and "broadcasters". This leads to several inconsistencies and is likely to lead to issues when it comes to enforcement. For example, broadcast network operators are tasked with the implementation of age-based access control mechanisms, but they receive encrypted signals that they cannot decrypt, classify, and implement access control.

We recommend that the NBP lay out the principles for regulation of content and carriage separately. For example, content regulation should be guided by the principle of freedom of expression under Article 19(1)(a) of the Indian Constitution, and accordingly limited only as per the restrictions under Article 19(2). Content regulation should additionally acknowledge the importance of intellectual property rights and protection.

TRAI in its 2006 Recommendations on "Issues Relating to Convergence and Competition in Broadcasting and Telecommunications" acknowledges the distinction between content and carriage regulation, noting that compared to the features of content regulation, carriage regulation is "…is concerned with technical and economical aspects/repercussions of policies." Carriage service providers operate via licenses and permissions granted by the government which confer to them exclusive rights (such as the right of way to set up infrastructure, and in some cases the right to use scarce natural resources like telecommunication spectrum), which are the premise for carriage regulation.

It is global practice to separate the regulation of content from the regulation of carriage. Amongst the signatories of the earliest international conventions on copyright (Berne Convention), India is the only country which regulates both broadcast content and carriage together.[14]

Crucially, both content and carriage regulation should be undertaken keeping in mind the aim of Maximum Governance through Minimum Government, i.e., levelling down regulations where possible to simplify compliance while allowing both sectors room to grow and adapt.

Suggestion: *There should be Separate principles and obligations on 'broadcasters' and 'broadcast network operators' in the NBP, based on the activity performed.*

(iv) The Draft NBP clubs push services with pull services, that are treated distinctly the world over owing to fundamental differences.

TV broadcasting is distinct from Online Curated Content (OCC) services on several counts. Television is a *push-based medium*, meaning viewers consume content at a prescribed time and schedule as decided by the broadcaster. On the other hand, OCC services are *pull-based, with consumers making informed*

---

[14] Koan Advisory, 'Promoting the Creative Economy: India's USD 100 billion imperative' (July 2017), available at: https://www.koanadvisory.com/storage/2019/06/Creative-Economy-report-USD-100-billion.pdf. In broadcasting, India regulates both downstream players and upstream players with the same regulation.

choices about the time and type of content they want to watch from a library of available content. Recently, the Telecom Disputes and Settlement Appellate Tribunal (TDSAT) held that an such services are not akin to TV channels, based on several distinctions between the two, and the separate laws that govern either service.[15]

OCCs are already regulated under the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 and MeitY implements these rules in synchrony with MIB through a well-functioning self-regulatory framework. There is no evidence of any market or regulatory failure which necessitated the introduction of OCC services under the Draft NBP.

Section 17 of the Draft NBP allows the government to relax obligations for OTT broadcasting service operators falling below a threshold of subscribers/active users. There is no similar relaxation or exemption for other types of broadcasting service providers. This reflects the Government's acknowledgment of the unique nature of OCC services that cannot be simply categorized or regulated under existing broadcast regulations.

Suggestion: *If OCC services are to be retained in the Draft NBP in some form, define them as online audio-visual services or online content application service providers and create differentiated, light-touch regulations for them consistent with global best-practices.*

(v) OTT platforms are not "broadcasting networks".

TV broadcasters rely on satellite and need broadcasting network operators (BNOs) to transmit content, but OTT services including OCC services do not. Telecom Service Providers (TSPs) and Internet Service Providers (ISPs) carry OCC content. The current bill requires OCC services to adhere to obligations for both broadcasters and BNOs.

OCC services operate in the application layer and not in the network layer. As mentioned in response to Draft Telecom Bill and Pre-Consultation Paper (PCP) to the NBP, the applications layer and the network layer are entirely distinct and are treated differently. Services on the application layer ride on the network layer and use networks to transfer data. *OTTs facilitate the exchange of information over the internet.*

OCC Platforms are already regulated under the IT Act & Competition Act and hence do not need to be regulated under any new law /bill/Act...

The Draft NBP in Section 30 provides for the 'Power of Inspection' and requires the operator of the broadcasting network or the broadcasting services to provide the necessary equipment, services and facilities at designated place or places for *lawful interception*. Lawful interception of OTT services is already

---

[15] All India Digital Cable Federation vs. Star India Pvt. Ltd., Broadcasting Petition/217/2023, available at: https://tdsat.gov.in/Delhi/services/daily_order_view.php?filing_no=NDM2MzM=

governed by Section 69 and Section 69B of the Information Technology Act, 2000 (IT Act), and the IT (Procedure and Safeguards for Interception, Monitoring and Decryption of Information) Rules, 2009, as well as the IT (Procedure and Safeguard for Monitoring and Collecting Traffic Data or Information) Rules, 2009. Additionally, because TSPs are carriers of OCC services, data related to OCC services can be intercepted in line with the Standard Operating Procedures for Lawful Interception and Monitoring of Telecom Service Providers.

Pipelines for broadcasting and OCCPs/digital media also largely remain distinct in India. Broadcasting services continue to use coaxial cables for content delivery in most TV markets. Services that have vertically integrated and offer both OCC and TV broadcasting content as a bundled offering also tend not to use a single infrastructural pipeline.

The explanation to the definition of "OTT broadcasting service" under Section 2(1)(y) states: "*In case of OTT broadcasting services, the person responsible for ensuring compliance with all requirements under this Act shall be the operator who makes available the programme or content and **not the network operator** or the internet service provider.*" (emphasis added). However, this is inconsistent with the classification of "internet broadcasting network" under 2(1)(q) which includes OTT broadcasting services.

Suggestion*: If OCC services are to be retained in the Draft NBP in some form, define them as online audio-visual services or online content application service providers and create differentiated, light-touch regulations for them consistent with global best-practice. You are requested to kindly ensure that OCC services are not classified as or clubbed with "network operators" as part of telecommunication services and be regulated by the Telecom Bill/Act.*

Q14. What additional measures should be adopted to combat piracy and ensure content security through copyright protection in the broadcasting sector? How can the technology driven solutions be developed and deployed to prevent unauthorised distribution and detection of the source of original content. Provide your comments with detailed explanations.

<u>**BIF RESPONSE**</u>

1. Maintain an "Infringing Websites and Mobile Applications list for administrative takedown and enforcement action against violation of copyright;
2. Develop model enforcement codes / standard operating procedures to address piracy risks across different broadcast platforms and services, and disseminate to law enforcement agencies.
3. In addition to the above, it is suggested that every broadcaster should be mandated to broadcast content with unremovable and uneditable watermarking. There must be stricter laws for violations and infringement. The industry must also be encouraged to make collaborative efforts in

capturing violations which should be reported to enforcement body to be set up by Government.

(G) Digital Terrestrial Broadcasting

Q15. What policy and regulatory provisions would be required in the policy to enable and facilitate growth of digital terrestrial broadcasting in India. Stakeholders are requested to provide strategies for spectrum utilization, standards for terrestrial broadcasting, support required from the Government, timelines for implementation, changes to be brought in the current ecosystem and the international best practices. Please provide your comments with detailed justification and proper reasoning.

BIF RESPONSE

At the outset, BIF wishes to state the following as regards D2M technology-the most contemporary application /use case of Digital Terrestrial Broadcasting:

As a fully technology neutral think tank, we neither support nor oppose any of the competing standards/technologies and that choice of technology adoption should be left to the market forces and not mandated. The Technology comparison of several alternate technologies for D2M (Direct to Mobile) should also take into account the costs involved in adoption and implementing the technology (a cost benefit analysis), especially keeping in mind that India is a price sensitive market.

Some of our other inputs/comments are given below:

- While the technologies for broadcasting content directly to devices look promising and alternate technologies are available, the ecosystem for chipsets and mobile devices needs further deliberation. The policy should be forward looking and industry driven to bring investment into the sector.
- Low frequencies would have a bearing on the size of the devices as the antenna needs to be large. Antennas design has to be worked out as the small form factor of the mobile handset has to handle antennas catering from a wide range of frequencies. The size of the antenna in a device already supporting a range of frequencies from 700 MHz to GHz range has a bearing on quality reception. Mobile devices have a small form factor and incorporating additional larger antennas will need further study on implementing UHF frequencies in mobile devices.
- Adapted chipsets will be required in mobile devices that enable broadcast reception. Views of the industry must be taken into account in making the determination.
- None of the trials of any technology used any latest commercially available off the-shelf-mobile devices. It is understood that prototypes or dongles attached to a device have been used.

- Aspects like power consumption of the device and battery utilisation need further consideration
- The impact on SAR, EMF, etc of the device needs further study.

- Aspects on the infrastructure related to a green fields network roll out vs. leveraging active/passive investments by broadband industry should be considered.
- Impact on the total energy consumed by the broadcast network should be gauged against the green commitments by the Govt. of India.
- Avenues for the broadband and broadcast industry to leverage each other's investments including infrastructure, spectrum and core network should be considered, while taking a decision regarding choice of technology.
- Given the fact that the overall ecosystem is far from being developed, it is too early to consider any mandates as regards adoption and deployment. Further, even if the same is to be adopted as a technology, there should not be any mandates surrounding the adoption of any one particular standard and it should be left open for the stakeholders to decide what best suits their requirements, based on consumer preferences.
- As things stand, D2M's acceptance is quite tepid globally due to lack of consumer interest in broadcasting content on the mobile. Further, it is likely to put burden on customers due to increase in cost of the mobile handset owing to inclusion of additional antenna, other hardware changes and performance issues.

1. Impact on production ecosystem: India is amongst one of the key mobile phone manufacturers in the world with global players making India their base to produce mobile phones / devices not only for the domestic market but to also cater to the global market. Preference to any technology and the corresponding standard that is specific to India and which is not adopted globally will require the creation of a different production line for exports and impact the economies of scale of production; thus derailing the government's Make in India plans. Therefore, it is essential that the adoption of a suitable technology for D2M be left to market forces.
2. Many of these standards have their corresponding advantages and disadvantages at various levels such as lack of widespread global adoption, incompatibility with supporting ecosystem and the existing mobile standards etc. For instance, the integration of smartphones with ATSC 3.0 standard remains a big challenge due to change in the form factor (requirement to have an additional antenna and modified chipset leading to increase in the cost of the mobile devices), impact on power consumption and performance issues of the device etc.
3. Mandating any one particular standard for D2M can potentially impact India's goal to become a global manufacturing hub. As India endeavors to be an integral part of the Global Value Chains for supply of mobile devices, it is imperative that the manufacturing of mobile devices, in India, is kept competitive by catering to the standardized global market and reap the benefits of scales, instead of manufacturing for India alone.
Some Supplementary Comments:
4. D2M allows smart phone users to watch live channels and other content free of any internet/data plan and unlimited number of users can access the D2M content with no buffering. Broadcast delivery of concurrent traffic provides the best use of network resources at the lowest cost with a buffer-free experience – especially live sports, news, educational content, popular linear entertainment channels, and popular viral OTT content.
5. As video constitutes nearly 70% of mobile data traffic, the roll out of D2M can decongest Broadband network and offload high viewership video

content to Broadcast network. This would ultimately result into better call services.

6. D2M service can be of National and strategic importance for Government as targeted alerts and messages can be delivered over the network. Besides broadcast of Emergency alerts, it can also facilitate broadcast of events of National Importance.

(H) Audience Measurement and Rating System

Q16. How the strategies with respect to audience measurement and rating system in National Broadcasting Policy can ensure, address and encourage: i. Establishment of a transparent, credible, and technologically equipped television audience measurement system that accurately reflects viewer preferences and behaviour ii. Expansion of the sample size to adequately represent the diverse landscape of television viewership, considering the anticipated growth in TV households iii. Integration of data from non-linear sources from digital media to cover cross-platform content consumption habits iv. Establishing a policy framework for conducting radio audience measurement in India v. Encouraging multiple agencies to ensure healthy competition and enhancing service quality of measurement and methodologies vi. Adoption and utilization of modern technologies

BIF RESPONSE

One of the Goals envisaged in the NBP include 'Encouraging Robust Audience Measurement towards Greater Transparency and Hygiene in TV and Radio Broadcasting'

National Broadcasting Policy should thus, include steps to support diverse approaches which will encourage competition within the audience measurement space by removing any invisible barriers.

1) Establish a process for accrediting or empanelling rating agencies for audience measurement;
   Approach to measurement and audience measurement must be an enabler for business innovation and competitiveness in how the TV advertising market is serviced, rather than act as an instrument for preserving status quo which privileges incumbents and disadvantages upstarts.
2) Develop model governance standards / voluntary codes of practices for rating agencies, to ensure fairness, neutrality and transparency.
3) Any registered distribution platform by virtue of its relationship with the customers should be allowed to gather insights and share it with interested stakeholders, without any restrictions. The regulator / MIB may prescribe a guidance based approach to enable this. Such insights will also help to offer enriched and content of choice to customers and further NBP objectives.
4) Prescribe standards for publishing data to ensure it is made available to all value chain stakeholders in a transparent manner and create a mechanism for auditing compliance;

(I) Grievance Redressal Mechanism

Q17. What other strategies should be adopted in the policy document for ensuring a robust grievance redressal mechanism to address and resolve complaints with respect to content as well as services effectively? Provide your comments with proper explanation.

BIF RESPONSE

One of the Goals envisaged in the NBP is 'Strengthening Grievance Redressal & Consumer Feedback Loops '
(Strategy: Service providers must improve QOS in line with what consumers have come to expect so that TV can continue to compete with new mediums on a solid footing. Greater accountability to consumers can also help ensure sustainability and equity in revenue share between content and carriage operators.)

Strategies
1) Engender transparency and accountability in co-regulatory mechanisms for content.
2) Review existing levels of access to and discoverability of broadcast content on different broadcast distribution platforms to assess the prominence given to consumer choice;

The current grievance redressal mechanism for OCCP works well and there is no need for a policy/ regulatory overhaul.

The self-regulatory approach for Online Curated Content Providers (OCCPs) under the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 is functioning well and there is no evidence of market or regulatory failure that requires added policy emphasis. An impact assessment study on implementation of the Rules conducted in 2023 found that the self-regulatory mechanism was working well.[16]

The government is also satisfied with the efficacy of the mechanism. In February 2023, Anurag Thakur, Union Minister, MIB said that the Ministry received and addressed all 265 consumer grievances against OCCPs since the IT Rules were implemented.[17] MIB Secretary, Apurva Chandra, and[18] former MIB Joint Secretary

---

[16]https://www.iamai.in/sites/default/files/research/IT%20RULES%2C%202021%20-%20Part%20II_compressed.pdf

[17]https://www.exchange4media.com/media-others-news/mib-took-care-of-265-ott-grievances-under-digital-media-code-anurag-thakur-125240.html

[18]https://12ft.io/proxy?q=https%3A%2F%2Feconomictimes.indiatimes.com%2Findustry%2Fmedia%2Fentertainment%2Fmib-advises-ott-platforms-to-exercise-self-restraint-amidst-growing-concerns-about-vulgar-content%2Farticleshow%2F99520949.cms%3Ffrom%3Dmdr

Vikram Sahay have also echoed the same view, and added that the mechanism has led to a reduction in FIRs against content and its creators.[19]

With respect to digital media, the introduction of the self-regulation mechanism for Digital Media platforms has resulted in the efficient and effective resolution of consumer grievances. As a consequence, a significant number of cases are now being resolved at level I of the Self-Regulation Stage, without the need for any further escalations. This has also been acknowledged by the MIB, in its Press Release issued in April 2023, wherein it has been stated that the self-regulatory mechanism is 'going quite well' and very few complaints were received at the ministry level.

TRAI has put in a robust grievance redressal procedure under 'Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017', dated 03 March 2017, which outlines a comprehensive grievance redressal mechanism for subscribers of Distribution Platform Operators (DPOs). This regulation not only specifies a detailed process for addressing subscriber complaints but also mandates defined timeframes for their resolution, ensuring timely and efficient redressal.

A two-tier mechanism has been established under the regulation, consisting of:

1.   Customer Care Centers for addressing their service requests and redressal of complaints; and

2.   A designated Nodal Officer within the distributor's framework to address grievances stemming from consumer dissatisfaction with the resolutions provided by the customer care center.

This mechanism provides subscribers with accessible channels for addressing their grievances at both initial and escalated levels.

In view of the self-sufficient existing mechanism to regulate Digital Media platforms, there is no requirement to bring them under the contours of 'broadcasting system'. The robust self-regulatory mechanism governing OTT service providers, and overseen by the MIB, has not only been effective, but also efficient in addressing and redressing grievances, ensuring optimal and reasonable compliance, and creating an environment of voluntary superintendence. The benefits and advantages of self-regulation are now well known and recorded not only in India but the world over. It leads to increased voluntary compliance, increased transparency, increased consumer confidence in self-regulated companies, reduces scope for jurisdictional overlaps or clashes, etc

(J) Socio-Environmental and Disaster Responsibilities

Q18. What role the broadcasting sector should play to fulfil social and environmental responsibilities? Provide in detail the key focus areas and the strategies the sector should consider. Also provide strategies on the following specific issues: i. To empower Person with Disabilities (PwDs)

---

[19]https://bestmediainfo.com/2023/05/drop-in-firs-against-ott-content-due-to-selfregulation-mechanism-joint-secy-vikram-sahay

to access the information and entertainment programmes ii. To encourage gender equality w.r.t. the participation and safety of the women workforce iii. To raise awareness about the issues of marginalized tribal communities, minorities and LGBTs iv. To adopt green broadcasting practices

BIF RESPONSE

- BIF is totally committed in adoption of measures to promote inclusivity and green practices.
- BIF strongly believes in empowering PwDs , promoting gender equality and adoption of green practices.
- On disaster relief, BIF recommends the leveraging of the PWS framework available in commercial telecom systems (CMAS/ETWS/CBS) for the broadcast network to align with global norms,
- On green broadcasting, BIF recommends leveraging existing infrastructure investments to avoid the deployment of new radios that consume additional energy.

Q19. Keeping in mind the immense role of broadcasting during disasters, how can the latest technologies be effectively utilized to provide disaster alerts and timely updates on television/mobile/radio during disasters? Elaborate with proper justifications.

BIF RESPONSE

Alternatives for disaster management exists. DoT on 6th April, 2023 had notified Cell Broadcasting support on all Mobiles. This is an excellent way to pass emergency messages and disaster alerts in case of emergencies in multiple languages. Hence FM Radio Broadcasting which is being promoted in some quarters as a reliable mode of emergency disaster alerts is not required to be mandated for this purpose. Also it must be noted that while the Cell Broadcasting feature is a push feature, FM Radio Broadcasting is a pull feature and is dependent on the user to activate the feature to receive the disaster warnings.

(K) Any other Issue

Q20. Stakeholders may provide their comments with full details (measures/ strategies) and justification on any other subject matter which may be considered to be incorporated as the inputs for the National Broadcasting Policy.

BIF RESPONSE

1. One of the Key objectives and Goals of NBP should be 'Reimagining the Role of the Private Sector in Broadcasting '
(Rationale: While there is a need to pare down the public interest obligations on the private sector, there is a simultaneous need for the private sector to be driven towards stakeholder responsibility that follows from the immense and perhaps incomparable societal impact of the broadcast medium)

Strategies

1) Enable accessibility for persons with disabilities on all broadcast mediums, in consonance with available technologies, industry best-practices, and phased and proportionate obligations;

2) Collaborate and consult with industry stakeholders to foster activity-based regulation for new-age technologies / mediums to pre-empt risks and mitigate societal harm;

3) Develop enabling framework for private investment in the broadcast infrastructure modernization;

4) Develop enabling framework for broadcast industry to collaborate with the telecom and IT industry in leveraging each other strengths, and enable win-win monetization strategies;

5) Strengthen transparency mechanisms like audits and voluntary reporting across the broadcasting value chain, to enhance consumer welfare and market competitiveness;

6) Enforce the provision of itemised bills for TV broadcasting, and enable digital payments partnerships across the broadcast value chain via public-private collaboration wherever possible;

2. Skill Development & Capacity Building in Keeping with Market Forces and New-Age Technological Needs

(Rationale: State supported skill development has faltered along the way from being industry agnostic to becoming oriented towards industries that only generate high volumes of employment. There is a need to bring attention and state capacities back to high-value sectors with high-growth potential, where volumetric demand may be lower but the need for skilled labour is considerably higher. This is also in keeping with public data/ trends that indicate an unsustainably level of unemployment of skilled professionals in the workforce.) I think this is already covered as part of the paper and questions

Strategies

1) Engage with relevant skill councils to continually encourage the addition and review of Qualification Packs (QPs) and National Occupational Standards (NOS), and aim to harmonise these with international standards in areas such as digital skilling in keeping with the New Delhi Declaration of the G20;

2) Establish upskilling programmes with reputed educational and vocational institutions and help establish National Centres for excellence in AV technologies and production techniques in such institutions;

3) Collaborate with industry to identify cutting-edge developments in areas such as Artificial Intelligence, Augmented Reality, Virtual Reality, Extended Reality, Metaverses, and other emerging technologies and explore means to accelerate adoption with various broadcasting segments;

4) Identify public institutes like the SRFTI and FTII and partner with private institutes to set up specialized courses for training professionals working in emerging areas in the TV, distribution, and radio industries.

xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx