

Issues for consultation and Reply

The technological advancements, convergence and increasing popularity of value added services & applications require more vibrant and effective regulation for cable TV industry. Present eligibility criteria do not clearly define a person and also do not take into account financial strength, technical strength and experience of the applicant to provide cable TV services. Do you feel that present regulatory framework requires change? Please give suggestions with justifications

It is correct that advancement of technology, convergence and also the popularity of value added services require vibrant and effective regulation. However, we are of the view that there is no need of defining the eligibility criteria pertaining to financial strength and experience of the applicant to provide cable TV services. It may not only root out large number of cable operators from its existing business but also restrict the new players in to the business that lack experience and expertise.

At this juncture, it would not out of place to mention about the Laissez - faire policy which stood relevant in the present context that private initiatives are best allowed to be free of intervention, minimal regulation, and personal freedom.

It is pertinent to note that, with the advent of DTH, IPTV, mobile TV, consumers increasingly have choice. Hence, it is not required for the government to specify financial and technical criteria. The more competitive service would win the customer.

Further imposition of such restriction may also lead to violative of fundamental right of person to freedom of trade and commerce.

The registering authority may refuse the grant of registration in case of non-submission of any document required by him, as the application form does not clearly list out the documents to be submitted. In view of this, should a comprehensive list of

documents required to be submitted along-with the application of registration be mentioned in the application form itself? Similarly, is there a need to make provisions for the appellate authority in case of refusal of registration by the registering authority?

We are of the view that the registering authority may clearly specify the documents in the application form to be submitted by the applicant. The Cable TV Act permits any Indian citizen/entity to start and operate the business in any part of India. The information sought in the application form may consist of any information that seeks to verify the same. No other information is required for satisfying the Government about the eligibility of the applicant.

Further, the grant of registration should be considered enough for the cable operator to deal with all other entities like broadcasters/MSOs without the need to provide any additional information. This will put an end to the hassle and impediments created by broadcasters, by seeking unnecessary information from cable operators and MSOs for execution of the subscription agreements.

Further, there is a need for the appellate authority in case of refusal of registration by the registering authority. However, it would be prudent if such appellate authority has its office at the place where such application is filed and be required to respond in a defined time frame.

The present cable TV industry is subjected to minimum supervisory guidance and control. Do you feel that there is a need to streamline registration process, data collection and monitoring to ensure better cable TV services to customers? Is there a need to have a centralized/decentralized authority where all the information relating to cable TV sector and also monitoring is managed? If yes, then what should be the structure and scope of work of such an agency? Please, give suggestions with justification.

The Cable TV Industry has grown to over 70m homes in about 15 years. It has surpassed land-line connections. This has largely been on account of the entrepreneurial spirit in this industry. Excessive supervision will kill this spirit.

The supervision of the Government/Regulator should be limited to the objective to ensuring compliance with Laws and protecting consumer interests.

The government should encourage consumer redressal forums to ensure that no consumer is cheated. A lot of the issues take care of themselves with the advent of the slew of DTH players. Added competition will ensure that the consumer get the better treatment in any case.

But, there is a need to streamline registration process, data collection and monitoring to ensure better cable TV services to customers. However the said purpose need not required to be achieved by establishing any authority, it would be appropriate that the implementation of existing regulations be assured which includes but not limited to maintenance quality of services and also provide the data/information sought by the authority.

Present cable TV registration, the Cable Act and the Cable Rules do not cast any specific responsibility for effective customer grievance redressal. What changes do you suggest to bring in effective consumer grievance redressal mechanism?

The scope and authority of TDSAT may be extended to adjudicate on the grievances of individual consumers. This may be in addition to the consumers' right under Consumer Protection Act.

At present by and large only one cable TV operator is providing service in a locality. Is there a need to introduce competition with more than one operator? Give your suggestions with justifications.

DTH is a reality today. 3 DTH players have started operation and 3 more await launch. In addition IPTV services are also round the corner. The government has already introduced competition and choice for the consumer.

No doubt increase in number of cable operators providing cable TV services in the same locality will definitely lead to competition which result into improvement in the quality of service and competitive price of the services in the interest of the consumers. But such a factor does not require regulation and shall be opened to be determined by the market forces. In fact current regulation does not restrict the number of cable operators in any area to one and already talks of execution of agreements for a territory on non-exclusive terms.

In view of deliberation in para 3.2, is there a need to modify provisions of the Cable Act/ Cable Rules? Please, give suggestions with justification.

In particular, suggestions may be given for a proper regulatory framework on the following issues, among others:

- (i) Correct determination of subscriber base**
- (ii) Laying a good quality network**
- (iii) Permission and monitoring of ground-based channels offered by MSOs and LCOs.**

Though vide tariff Order dated 4th October 2008, TRAI has allowed the MSO's to subscribe the channels from the Broadcasters on a-la-carte basis, in substance the broadcasters are not interested in the providing the channels on the a-la-carte basis though they have declared their a-la-carte rates in compliance of the said Tariff order. The broadcasters are causing hardship to the MSO's who are seeking channels on a-la-carte

basis by creating a constraint of higher declaration of subscriber base, which is much higher than the subscriber base at which the parties have executed the agreements for bouquet. There is a need to put some check on the broadcasters so as the sanctity of tariff order is maintained and the MSO's may get the channels on A-la-Carte basis.

It is interesting to note that in various seminars organized by TDSAT both broadcasters and MSO's have consented for the implementation of voluntary CAS, however in practice broadcasters are not interested in executing such agreements.

- (i) Correct determination of subscriber base:** -Correct determination of subscriber base can only be brought by the introduction of addressability or digitalization. TRAI has already recommended digitalization vide its recommendation dated 14 September 2005. This is required to be implemented at the earliest with will take care of the determination of Subscriber base.
- (ii) Laying a good quality network:** - laying down a good quality network shall be the primary responsibility of the cable operator. Competition will ensure that players with a good quality service are able to survive and thrive. It is not practical for the government/Regulator to be able to monitor the service quality of 70,000 cable operators. Hence the approach to bring quality should be to encourage competition and choice at consumer level.
- (iii) Permission and monitoring of ground-based channels offered by MSO's and LCO's:** - Cable TV operators should be held responsible for observing program code and advertisement code for content provided solely by them and that Cable TV operators should not be held responsible for content being provided by MSOs/broadcasters. However, there is need of any explicit provision for appeal against the act of authorized officer who is empowered to prohibit transmission of certain programmes in public

interest. This is more important keeping in view the large number of cable TV channels offered by MSO's to cable operators, which are not covered under up-linking or downlinking policy.

Separate license/ Registration of Multi-system Operator (MSO):

We are of the view that there is no need for a separate license agreement for the MSO's. At present cable operators have the freedom to acquire the status of MSO's after connecting other cable operators. Laying down further rules and regulations for acquiring the status of MSO's will lead to unnecessary filing of papers and impel "Licence Raj" for no cause and reason.

Presently MSOs are also registered as Cable TV operators. Do you feel the need for a different regulatory framework for MSOs in view of discussions in section 3.3? Give your suggestions with justification. The suggestions may specifically cover, among others, the issues relating to registration of multi-city MSOs, monitoring mechanism, number of MSOs in a city/state etc.

There is no need of separate regulatory framework for the MSO's as the existing regulations and Tariff Orders cover within its scope the business, roles and responsibilities of MSO's. The Tariff Order dated 4th October 2007 has already imposed a responsibility upon the MSO's for maintenance of records and hence no separate regulation is required. Further the information may be collected from TRAI from time to time regarding the number of operators in the city and hence no formal regulation is required for the said purpose.

What QoS parameters should be prescribed for non-CAS areas to address concerns of the customers keeping in view the present status of networks? What should be the points in the network to define various signal parameters such signal strength, S/N ratio etc? What should be the monitoring mechanism to ensure effective implementation?

There is no need to control the market, as Quality of services may remain opened to be determined by the market forces. The changes that are occurring in the market is evident of the fact the consumers are moving towards the services that are qualitatively better and is also financially attainable.

The cable industry operates as in a model where cable operators connect to MSO's who obtain their signals from broadcasters. It is difficult to lay down any signal parameter as it is required to be monitored at each hand over points so as to impose a responsibility upon the broadcaster/ MSO's /Cable Operators for supplying poor signals.

Incentives for network up gradation

In fact before the regulation regarding the digitalization is actually been effected by TRAI, it would be appropriate to encourage for digitalization. The concept of "voluntary CAS" may be defined. Those MSO's who are keen to implement voluntary CAS shall be encouraged and it shall be made mandatory upon the broadcasters to execute agreement with such MSO's on terms as laid down for CAS.

In view of technological advancement, convergence, and increasing competition upgradation of cable TV operators network will be desirable; however it may require significant investments. Please suggest how cable TV operators can be encouraged to upgrade their network both in their business interest and in interest of customer to provide better services?

With the expansion of market and advancement of technology, convergence and increasing competition, new players, which include corporate bodies, are marking their presence in purveying the cable TV services and are making significant investment in the business to provide better services to the consumers. Transfer of business to such corporate

bodies by the cable operators for better services and up gradation shall be encouraged and regulation shall protect such transfer.

Here it is pertinent to point out that the Cable TV Act, requires that the cable operator could be a company “where no less than 51% of the capital is held by Citizens of India”. The definition of the “person” required clarification. In order to encourage a corporate structure with access to adequate funding, the government must clarify that cable operators may be held by corporate entities,

Is standardization of encryption and subscriber management software feasible? Please, give comments with justification.

There is no need to lay down any standardization of software, as it will lead to an impediment to the technological advancement of the sector. Instead there is a need to define the requirement that a technology must possess for an effective implementation of CAS/digitalization and any uneven requirement of broadcasters regarding technical requirement/specific software may be withheld.

What should be the consideration, important criteria and guiding factors for prescribing the transition path for the existing cable TV operators and MSOs to the revised regulatory regime? Please, give suggestions with justification.

We suggest that the current regulation is adequate.