

Consultation Paper No. 07/2014

Response to the Consultation Paper  
On  
Regulatory Framework for Platform Services  
(Consultation Paper No. 07/2014)  
Dish TV India Ltd.

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## **DISH TV RESPONSE TO THE CONSULTATION PAPER NO. 07/2014 ON PLATFORM SERVICES**

### **A) PRELIMINARY SUBMISSIONS**

- (i) At the outset, we would like to refer to the letter dated January 17, 2013 of the Ministry of Information and Broadcasting with reference to which the present Consultation Paper has been initiated. A bare perusal of the said letter clearly indicates that the reference made by the Ministry of Information and Broadcasting is in relation to the transmission of local channels or ground based channels by Cable Operators / MSO's only and there is no reference of DTH Platforms in the said letter. Accordingly, it is clear that the Licensor of the DTH Platform does not feel that any regulation is required for the services being provided by the DTH Operators since the same are in line with the terms and conditions laid down under the DTH License.
  
- (ii) It is quite apparent and clear that the intent of the MIB is to regulate the Platform Services being offered by the Cable Operators which are either in violation of Intellectual Property Rights of a third party or any applicable law. It is an admitted fact that no such violation takes place in case of a DTH platform and because of this reason only, the MIB had required the TRAI to give their recommendation on so-called Platform Services of Cable Operators specially the Local Cable channels. The Authority has erred in placing the Platform Services of DTH operators at par with/ akin to Platform Services of Cable operators
  
- (iii) Our response to the consultation paper is without prejudice to our rights and contentions that the services provided by Cable Operators / MSO's cannot be compared with the services provided by the DTH Operators and accordingly, there cannot be a single regulation to cover the services being provided by both the

platforms. Further, even the MIB has not required the TRAI to undertake any consultation process for issuance of any recommendation in respect of Platform Services offered by the DTH operators.

B) With above remarks our response to various issues raised in the Consultation Paper is being given hereinafter:

**1. Do you agree with the definition for platform services proposed in paragraph 1.6? If not, please suggest an alternative definition. Please elaborate your response with full justification**

**Dish Response:** Subject to the finalisation of definition of “Program”, Dish TV finds the suggested definition of platform services acceptable.

**2. Kindly provide comments on the following aspects related to programs to be permitted on PS channels:**

**1. PS channels cannot transmit/ include**

**2.1.1. Any news and/or current affairs programs,**

**2.1.2. Coverage of political events of any nature,**

**2.1.3. Any program that is/ has been transmitted by any Doordarshan channels or TV channels permitted under uplinking/ downlinking guidelines, including serials and reality shows,**

**2.1.4. International, National and State level sport events/ tournament/ games like IPL, Ranji trophy, etc.**

**2. PS channels can transmit/ include**

**2.2.1. Movie/ Video on demand**

**2.2.2. Interactive games,**

**2.2.3. Coverage of local cultural events and festivals, traffic, weather, educational/ academic programs (such as coaching classes), information regarding examinations, results, admissions, career counseling, availability of employment opportunities, job placement.**

**2.2.4. Public announcements pertaining to civic amenities like electricity, water supply, natural calamities, health alerts etc. as provided by the local administration.**

**2.2.5. Information pertaining to sporting events excluding live coverage.**

**2.2.6. Live coverage of sporting events of local nature i.e. sport events played by district level (or below) teams and where no broadcasting rights are required.**

**Dish Response:**

The services or programs which cannot be shown under the Platform services should be only those which have been restricted under a specific Act/guidelines and/or which do not fulfil the laid down requirement by any Authority. .

Dish TV does not subscribe to the view that any programme which is carried by the permitted channels/Doordarshan cannot be shown by the platform as a part of its platform services. There can be instances where the platform also has taken the rights of the same program from IPR holder which can be concurrent to the Satellite or Terrestrial rights. Thus by saying that Platform services cannot show the programmes being shown by Doordarshan/permitted channels even if it has necessary rights is not quite correct.

In addition, the abovementioned list should only be an inclusive list and the platform services operator should be free to place/include such program in its programming service which fall within the parameter of permitted programs. In this regard, it is also important to note that the DPO should be required to have the permission from the owner of the content which can be a movie, serial or a specific programme/event before making the same available on its platform. It is a common knowledge that rampant piracy of movies take place on the cable platforms and the present consultation papers aims to establish a framework under which the cable platforms are not permitted to violate any third party rights.

So far as the News & Current Affairs program is concerned, Dish TV is of the view that in case a platform wishes to show the News on the local platform, then the platform cannot have FDI more than the FDI stipulated in the case of the news channels and it should meet the specific requirements laid down in the policy for the News channels by the MIB from time to time, This is to avoid any ambiguity of the news channels coming in the form of the platform services as now it is possible for the service to be carried on a pan region or may be on National Level because of integrated fibre network via IP. Since it is anticipated that most of the platform

services will be run by the MSOs or the DTH service providers it will be easier to monitor the same and take action against the erring parties.

In view of the above, we are also of the considered view that for platform services the must provide or must share clause should also be implemented. Suppose a platform buys exclusive rights to some popular programming it can result in putting the competitive or alternate platforms in a disadvantageous position besides depriving the subscribers of other platforms from viewing the said popular programming.

**3. What should be periodicity of review to ensure that the PS is not trespassing into the domain of regular TV broadcasters?**

**Dish Response:** The periodicity to review should be not more than 6 months. All the DPO's should be required to submit the information in relation to the Platform Services provided by them in the previous 6 months. However, the TRAI will have to establish a frame work through which it is able to review the Platform Services given by the Cable Operators who have in past been showing movies and news items illegally and unauthorisedly .

**4. Should it be mandatory for all DPOs to be registered as Companies under the Companies Act to be allowed to operate PS? If not, how to ensure uniform legal status for all DPOs?**

**Dish Response:** Yes, it should be made mandatory for all DPOs to be registered as Companies under the Companies Act to be allowed to operate PS.

**5. Views, if any, on FDI limits?**

**Dish Response:** There is no need to provide for any FDI Limits in respect of the Platform Services except in case where the platform wishes to carry the news and current affairs on its platform services . Such platforms will have to comply with the FDI norms as stipulated by MIB under the guidelines for the news channels. In case of the platforms which do not intend to enter into the domain of News and Current

Affairs, they would be governed as per the FDI guidelines of their respective platform licensing conditions.

- 6. Should there be any minimum net-worth requirement for offering PS channels? If yes, then what should it be?**

**Dish Response:** There is no need to prescribe any net worth requirements for offering Platform Services. As stated above, since the Platform Services are not distinct from the Platform providing the service, there is no need for prescribing any net worth requirement in respect of the Platform Services.

- 7. Do you agree that PS channels should also be subjected to same security clearances/conditions, as applicable for private satellite TV channels?**

**Dish Response:**As the platform itself would have been security cleared and hence till the time there is no change in share holding pattern, or change in the Directors there is no need for any separate security clearance. As per the current requirements the Directors are required to be Security cleared and the same can be continued..

- 8. For the PS channels to be registered with MIB through an online process, what should be the period of validity of registration and annual fee per channel?**

**Dish Response:** The validity of the registration of the Platform Services for DTH operators should be linked with the validity of the platform License. There should not be any fee imposed on the DTH operators in respect of the Platform Services. Among all the DOP's, only the DTH operators are required to pay entry fee, license fee and also furnish bank guarantee. Accordingly, there should not be any requirement of any additional payment by the DTH operators on account of Platform Services. The requirement for payment annual fee can be imposed on the cable platforms who are not required to pay any kind of entry or license fee to the government.

- 9. What is your proposal for renewal of permission?**

**Dish Response:** The renewal should also be linked with the period for which the platform license is renewed.

- 10. Should there be any limits in terms of geographical area for PS channels? If yes what should be these limits. Please elaborate your response with justifications.**

**Dish Response:** The geographical area for Platform Services should be linked with the License available with the DPO. The DTH has country wide license and accordingly, the DTH operators should be permitted to have the Platform Services for the entire country.

- 11. Should there be a limit on the number of PS channels which can be operated by a DPO? If yes, then what should be the limit?**

**Dish Response:** There should not be any limit on the number of Platform Services operated by a DPO. It may be stated that since a platform launches a Platform Services keeping in mind the requirements of the subscribers, there is no rationale for fixing any limit on the number of Platform Services. Such a decision is a commercial decision which should be left to the commercial wisdom of the DPO.

- 12. Do you have any comments on the following obligations/ restrictions on DPOs:**

**12.1. Non-transferability of registration for PS without prior approval of MIB,**

**12.2. Prohibition from interconnecting with other distribution networks for re-transmission of PS i.e. cannot share or allow the re-transmission of the PS channel to another DPO**

**12.3. Compliance with the Programme & Advertisement Code and TRAI's Regulations pertaining to QOS and complaint redressal**

**Dish Response:** The most important requirement under the provisioning of Platform Services should be requirement to comply with all applicable laws including the Programme & Advertisement Code. In this regard, it is stated that the DTH License conditions impose an obligation on the DTH operator to comply with all applicable laws including the Programme & Advertisement Code. Similar stipulations be made in the licenses of other DPOs such as MSOs.

**13. What other obligations/ restrictions need to be imposed on DPOs for offering PS?**

**Dish TV Response :** Dish TV is of the view that there are adequate obligations and compliance requirements on DTH platforms and thus any kind of additional obligations/ restrictions are neither warranted nor required..

**14. Should DPO be permitted to re-transmit already permitted and operational FM radio channels under suitable arrangement with FM operator? If yes, then should there be any restrictions including on the number of FM radio channels that may be re-transmitted by a DPO?**

**Dish TV Response ;** Till the time Platform does not violates the FM Radio guidelines and has the rights from the channel owner to carry the channel, they may be allowed to carry the FM Radio channels, however appropriate interconnect regulations will have to be drafted for the same.

**15. Please suggest the mechanism for monitoring of PS channel.**

**Dish TV Response** The monitoring of the channels will have to be done at the local level and thus the local authorities will have to create required infrastructure to monitor the channels. In addition, the platform should also submit a monthly certified copy of the FPC that various channels on the platform have carried.

**16. Do you agree that similar penal provisions as imposed on TV Broadcasters for violation of the terms and conditions of their permissions may also be imposed on PS? If not, please suggest alternative provisions.**

**Dish TV Response :**In principle we agree with the suggestion that in case of violation of the terms & conditions of the permission, the penal provisions as imposed on TV Broadcasters should be imposed on PS permission holders also. However, since the broadcasters only have the permission for broadcast channels it is easier to implement these penal provisions on them. The Platform especially the cable networks cater to local subscribers and therefore it is necessary to have a robust local level monitoring mechanism to detect the violations by these platforms and in case of default the penal action be taken against them which may inter alia include suspension of platform services.It is suggested that if there are more then 3 defaults, the network should not be allowed to run any platform services on the platform and in the event of persistent defaults the permission for PS be cancelled after giving the



platform a reasonable opportunity of being heard. Besides, the monetary penalty can also be levied depending upon the nature of violation.

**17. What amendments and additional terms & conditions are required in the existing registration/ guidelines/ permission/ license agreements w.r.t. DPOs for regulating the PS channels?**

**Dish TV Response:**The DTH guidelines and Cable Act will have to be amended to include the platform services as currently carriage of only the permitted channels is allowed.

The need will be to bring the provisions of the registrations for such services, their nature and then the penal provisions in case of defaults/violations.

**18. What should be the time limit that should be granted to DPOs for registration of the existing PS channels and bring them in conformity with the proposed regulatory framework once it is notified by MIB?**

**Dish TV Response :**A period of six months be granted for bringing in the existing platform services in conformity with the new regulatory framework.

**19. Stakeholders may also provide their comments on any other issue relevant to the present consultation including any changes required in the existing regulatory framework**