BY COURIER / ELECTRONIC MAIL

09.02.2022

To,
Advisor (B&CS)
Telecom Regulatory Authority of India,
Mahanagar Doorsanchar Bhawan,
Jawahar Lal Nehru Marg,
Old Minto Road,
New Delhi – 110 002

Dear Sir,

Re: Submissions to Telecom Regulatory Authority of India ("TRAI") in response to the Consultation Paper on "Ease of Doing Business in Telecom and Broadcasting Sector"

At the outset, we would like to thank the Authority for giving us an opportunity to tender our views on the Consultation Paper on "Ease of Doing Business in Telecom and Broadcasting Sector".

With regard to the present consultation process, we hereby submit that we have perused the said Consultation Paper and we hereby submit our comments as attached in the Annexure. The said comments are submitted without prejudice to our rights and contentions, including but not limited to our right to appeal and / or any such legal recourse or remedy available under the law and equity.

The same are for your kind perusal and consideration.

Yours Sincerely,

DocuSigned by:
Daphne Menezes
Ms. Daphne Menezes
Manager Legal Affairs
For Discovery Communications India
Encl: ***As above***

RESPONSE ON BEHALF OF DISCOVERY COMMUNICATIONS INDIA ("DCI") TO THE CONSULTATION PAPER ON EASE OF DOING BUSINESS IN TELECOM AND BROADCASTING SECTOR DATED 08.12.2021 ("Consultation Paper") ISSUED BY THE TELECOM REGULATORY AUTHORITY OF INDIA ("Ld. Authority / TRAI")

At the outset, DCI would like to thank the Ld. Authority for providing them the opportunity to tender their views on the Consultation Paper. Before proceeding with our comments / observations on the contents of the Consultation Paper, DCI would like to set out some preliminary observations on the issues addressed in the Consultation Paper.

1. Preliminary comments

1.1 At the outset, we would like to re-apprise the Ld. Authority that DCI alongside other service providers and consumer, has approached the Hon'ble High Court of Delhi by way of writ petitions challenging the legality, validity and propriety of the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017 ("**Interconnection Regulations**") and the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017 issued by TRAI on 03.03.2017 (collectively, the "**New Regulations**" or "**NTO 1.0**"), and the amendments to the New Regulations notified in 2020 ("**NTO 2.0**"). These writ petitions are presently pending consideration of the Hon'ble High Court of Delhi. Any comments / suggestions of DCI on the present Consultation Paper are without prejudice to its right and contentions in the pending proceedings.

1.2 The present Consultation Paper issued by the Ld. Authority - in order to identify the bottlenecks and regulatory hurdles in the broadcasting industry in India as well as to promote 'Ease of Doing Business' ("**EoDB**") – is a welcome step in the right direction. A conducive and favourable business environment and regulatory framework will only help in attracting more foreign investments and generating more employment, which in turn will benefit the country's economic development and growth.

1.3 The overall rank of India in the World Bank's Doing Business index rankings was 142 out of 190 economies in 2015. This has improved to 63rd position in 2020 due to several steps taken by the Government of India to reform the business environment and to promote a more liberalized and transparent business climate. However, there is still some scope for improvement in improving EoDB in India through timely policy and regulatory interventions.

1.4 The Indian media and entertainment industry was projected to grow at a pace of 14% over the period 2016-2021, outshining the global average of 4.2% CAGR, with advertising revenue expected to increase at a CAGR of 15.3% during the same period. Further, India's pay-TV industry was projected to grow at 7% CAGR between 2020-25 as total industry revenues, including subscription and advertising, were to reach $12.3 billion by 2025.[1]

1.5 DCI is engaged in providing a variety of programming services, including infotainment, sports, kids, general entertainment channels such as the Discovery Channel, Animal Planet, TLC, Discovery Kids, Discovery Science, etc. covering a wide array of high quality entertainment from science and technology, ancient and contemporary history, adventure, cultural and topical documentaries. DCI's channels reach more than 180 million subscribers in the Asia-Pacific. In India, DCI's channels have limited and discerning viewership, with a television share in India across all genres of approximately 0.75%. Niche channels like the ones provided by DCI serve a unique purpose and cater to a specific and limited set of subscribers.

1.6 .

1.7 With the spread of global pandemic due to COVID-19 and its impact in India including long period of lockdown and economic disruption, the broadcasting industry has been facing severe challenges – in particular small and niche broadcasters such as DCI. The broadcasting industry as a whole is facing acute financial distress on account of the COVID-19 global pandemic.

[1] www.investindia.gov.in

1.8 The pandemic not only adversely affected business interests and revenue collections of stakeholders but the job market as well. The immediate impact could also be seen in the form of shutting down of some of the more prominent channels, being English genre channels like Star World, AXN, FYI TV18, etc. which are similar to the channels provided by DCI. The Indian media and entertainment sector fell by 24% in 2020 to INR 1.38 trillion, in effect taking revenues back to 2017 levels. The largest absolute contributors to the fall were the filmed entertainment segment (INR 119 billion), print (INR 106 billion) and television (INR 102 billion). The share of traditional media (television, print, filmed entertainment, OOH, radio, music) stood at 72% of the media and entertainment sector revenues in 2020.[2]

1.9 In view of the unprecedented turbulence faced by the broadcasting sector due to the COVID-19 pandemic, the initiative taken by the Ld. Authority in issuing the present Consultation Paper to identify better solutions and faster timelines for various activities, processes and approvals in the broadcasting sector is a welcome step as it will not only serve to create more investment opportunities in the broadcasting sector but also help in improving India's EoDB ranking from 'Easy' to 'Very Easy'.

2. Implementation challenges of cable digitization continue to remain: Billing issues faced by broadcasters and non-compliance of distribution platform operators ("DPOs") and multi-system operators ("MSOs") with parameters of digital addressability

2.1 The Ld. Authority has consistently maintained that digitalization in the cable sector was completed all over the country by 31.03.2017. However, it has been pointed out by numerous stakeholders, including DCI, during the process of consultation on the New Regulations that the seamless implementation of digital addressability system ("**DAS**") is still a far cry on the ground. DCI has reiterated time and again that the entire edifice of the New Regulations is based on digital addressability, and on the underlying conditions of

[2] EY: "Playing by new rules - India's Media & Entertainment sector reboots in 2020", March 2021

compliance with the DAS including conditional access system ("**CAS**") and subscriber management system ("**SMS**") by the DPOs, and proper and seamless implementation of SMS and CAS along with necessary upgradation / implementation of systems, which has not been achieved in case of a number of smaller DPOs. The Ld. Authority has itself acknowledged in paragraph 5 of its Explanatory Memorandum to the Interconnection Regulations that till now, digitization of the cable services has been completed in most of the urban areas only.

2.2 DCI has already brought to TRAI's notice the several day-to-day operational challenges and billing constraints faced by DCI on account of the unpreparedness of DPOs to implement the New Regulations..

2.3 Per force, the absence of digitization dents the entire basis of the NTO framework. Broadcasters' revenue is derived from two streams: (i) subscription charges; and (ii) advertisement revenue, and subscriber base is thus a primary factor in determining the revenue from both these sources. Under the Interconnection Regulations, the monthly invoice to be raised by the broadcaster for his share of the maximum retail price is dependent on a complete and accurate monthly subscription report ("**MSR**") required to be generated by DPOs through the SMS. The Interconnection Regulations therefore require every DPO to ensure that its DAS, SMS and CAS meet the technical parameters as specified in Schedule III and Schedule IX to the Interconnection Regulations.

2.4 It is now an admitted position by the Ld. Authority in previous consultation papers that the process of creation of MSR for many of the DPOs is non-existent / compromised on account of usage of sub-standard set-top boxes ("**STBs**"), etc. As a result, the entire stakeholder chain, from the DPO to the broadcaster, has suffered losses and difficulties on account of lack of standardization of parameters for implementation of SMS and CAS. While many of the DPOs have taken undue advantage of the situation by under-declaring subscribers, there are many DPOs who despite having spent substantial amounts in setting up their network / systems, are admittedly not in a position to secure compliance with strict SMS and CAS parameters on account of sub-standard equipment. In the absence of MSRs

which correctly report a broadcaster's subscriber base, there is no basis for raising or verifying monthly invoices, which causes severe revenue leakage. Further, in the absence of such MSRs, the question of auditing such DPOs remains out of question. It would have been a prudent regulatory practice to first address these technical issues before forcefully ushering in a regime, dependent heavily on SMS and CAS. As a result, the entire industry has been left a casualty, including the viewers, who have been forcefully opted out of their long-standing choice of bouquets and channels.

2.5 DCI has additionally repeatedly brought to TRAI's attention that several MSRs suffer from discrepancies and irregularities, viz. (i) non-adherence of several MSRs with format prescribed in Schedule VII to the Interconnection Regulations; (ii) failure of MSRs to provide the subscription base in the DPOs' respective target areas; and (c) discrepancy vis-à-vis subscriber numbers, considering DCI's subscriber base, and inclusion of its channels in base packs. The aforesaid inconsistencies in MSRs have further restricted DCI from issuing invoices to DPOs, thereby causing immense revenue loss. Such issuance of inaccurate MSRs can only arise due to deployment of sub-standard equipment by DPOs.

2.6 It was imperative for TRAI to ensure that DPOs employed proper and certified equipment to support functional CAS and SMS systems, in order to be able to faithfully record and disclose correct subscriber base and adhere to other compliances before implementing the NTO regime, so that the commercial interests of broadcasters were protected. However, TRAI did not carry out the requisite survey with respect to state of preparedness of DPOs and MSOs in employing standard CAS and SMS systems which, it is mandated to do in law and had not carried out any impact survey of the NTO regime before changing over from the earlier regime. In fact, as it stands today based on TRAI's own statements in its previous consultation papers, the broadcasting sector is still being operated *de facto* at par with an analogue system, at the whims and fancies of the DPOs, since majority of them do not have a fool-proof DAS.

3. Issues pertaining to audit

3.1 DCI has, from time to time, intimated TRAI of the challenges faced by broadcasters in auditing DPOs - such process being time-consuming, commercially unviable and onerous for a smaller broadcaster such as DCI, especially given the large number of DPOs and the consequential cost vis-à-vis the limited market and revenue that DCI has for its channels compared to dominant broadcasters.

3.2 The right of broadcasters to conduct audit of DPOs' systems under Regulation 10(7) of the Interconnection Regulations is intended to be used in exceptional circumstances where there is a possibility of incorrect reporting of subscribers by one / few DPOs in the ordinary course of business. Auditing of DPOs cannot by itself provide a solution to gross non-compliance and violation of the Interconnection Regulations by almost 80% of the DPOs with whom DCI has executed interconnection agreements. Since the process of auditing itself is quite long, even if a sufficient number of auditors are empanelled by TRAI, the aforesaid issue will not be resolved and DCI will be unable to exercise its right to cause audit of DPOs' systems effectively given the time, cost and logistical challenges involved in an auditing process.

4. Issues pertaining to signal piracy

4.1 The broadcasting industry is still reeling from the detrimental effects of the implementation of NTO 1.0 and NTO 2.0 – products of hurried regulation-making by the Ld. Authority. DCI has time and again iterated that the Ld. Authority had proceeded to enforce NTO 1.0 with undue haste for inexplicable reasons, without first putting the essential building blocks of the new regulatory regime - complete nationwide digital addressability and the employment of standard and upgraded CAS and SMS by DPOs in place. This has cost the entire broadcasting sector, especially small and niche broadcasters such as DCI.

4.2 The NTO 1.0 framework notified by the Ld. Authority in 2017 completely altered the regulatory regime prevailing hitherto primarily on the ground of digital addressability of TV channels, which was to provide complete transparency to the broadcasters regarding the active subscription / viewing of their channels, and changed the revenue model for

broadcasting from a lump sum arrangement to one based on number of subscriptions. The compliance with DAS has been a primary and underlying assumption for interconnection, revenue sharing and several other aspects under the NTO 1.0 framework.

4.3 The Ld. Authority has claimed on various that NTO 1.0 has "*proved to be effective in harmonizing the business process, reduce litigation, bring transparency and nondiscrimination among other positive change in the sector and that the framework empowered consumers to make choice of channels and also brought transparency for consumers in the pricing of cable services*". However, the Ld. Authority has itself stated the following in previous consultation papers issued by it, which support DCI's contentions raised from time to time that about the detrimental effect of NTO 1.0 on smaller niche broadcasters like DCI in the absence of a foolproof and efficient rollout of DAS:

(a) The Ld. Authority has itself acknowledged at various places in the consultation paper dated 22.04.2020 on the 'Framework for Technical Compliance of Conditional Access System (CAS) and Subscriber Management Systems (SMS) for Broadcasting and Cable Services', the fact of deployment of sub-standard CAS and SMS by DPOs, and the implications and possible threats from deployment of sub-standard CAS / SMS systems to the consumers, broadcasters and DPOs as follows:

(i) *Consumers*: Sub-standard CAS may result in frequent disruptions and hence poor quality of service for the end consumer. The consumers get locked in with STBs with limited functionality due to sub-standard proprietary software, which in turn results in the wastage of money as they may have to replace such STB several times during the subscription period.

(ii) *Broadcasters*: Broadcasters and content developers are impacted directly by deployment of sub-standard CAS / SMS as the security of their content is compromised. It leads to content piracy and redistribution without the knowledge and permission of the broadcaster and the operator. Sub-standard CAS / SMS deployment further results in an increase the probability of

misreporting the usage and subscription numbers which may result in revenue loss to the broadcaster and disputes with the operators in cases of under / excess billing.

(iii) *DPOs / MSOs*: Since most of the MSOs lack technical expertise since they have migrated from the analog cable TV regime, they fall prey to sub-standard solutions and face support issues subsequently. This increases their operational costs as technical issues arise and their flexibility to extend features is reduced. Additionally, this may lead to disputes with broadcasters due to potential manipulation / misrepresentation of subscriber data which may affect the revenue for all parties concerned due to excess / under billing.

4.4 Though the New Regulations purport to induce transparency in the sector by providing for furnishing of MSRs by DPOs to broadcasters at regular intervals, which would ensure accurate declaration and accountability of the number of subscribers viewing a channel, however, contrary to its intended object, the new regime has led to perpetuation of cable / signal piracy.

4.5 Cable piracy occurs whenever there is an instance of unauthorised transmission / re-transmission of broadcast channels due to, *inter alia*, unencrypted feed, unauthorised sharing of broadcasters' signals, etc. DCI has, in the past, had to deal with DPOs / MSOs unauthorisedly and illegally distributing DCI's channels to its subscribers in an unencrypted form, in violation of the New Regulations. As per the New Regulations, a DPO is bound by law to distribute channels to subscribers in an encrypted form only which ensures accountability in the CAS and the SMS systems of the number of subscribers viewing a channel.

4.6 However, when a channel is distributed to subscribers in unencrypted form, the number of subscribers receiving such channel will not be reflected in the CAS and SMS systems of the DPO. As a result, such subscribers will not be reported by the DPO to the broadcaster, amounting to under-declaration which cannot be identified through audits. Such under-

declaration not only impacts the broadcasters, but also denies the government the ability to tax the DPO, causing severe revenue leakage for both the broadcasters and the government. Unfortunately, the new regulatory regime, which is claimed to be the comprehensive and all-encompassing code on interconnection between service providers in this sector, admittedly fails to provide a system of checks and balances and address this critical issue of cable piracy on account of lack of standardized parameters for implementation of SMS and CAS, strict compliance and surveillance, and proper sensitization and instructions to DPOs. In the bargain, it is the broadcasters, and more so the small and niche broadcasters like DCI, which have suffered losses.

4.7 Broadcasters, including DCI, are facing the added issue of cable piracy which stands to put the interests of all broadcasters at grave risk. Though NTO 1.0 purports to induce transparency in the sector by providing for furnishing of MSRs by DPOs to broadcasters at regular intervals, which would ensure accurate declaration and accountability of the number of subscribers viewing a channel, however, contrary to its intended object, the new regime has led to perpetuation of cable / signal piracy.

4.8 It is important to highlight that signal piracy decisively hampers the interests of smaller broadcasters with a limited market and source of revenue as they do not have the economies of scale of larger broadcasting organizations. DCI produces channels which carry esoteric and educative content, and which serve a unique purpose in catering to a specific and limited set of subscribers. However, loss of revenue due to signal piracy would affect broadcasters', including DCI's, ability to produce innovative and quality content. Consequently, signal piracy will affect the interests of the subscribers as well by depriving them of access to such quality content and information.

4.9 The Ld. Authority has acknowledged the issue of cable piracy in the above consultation paper and has stated that it "*receives hundreds of complaints every year from various broadcasters as regards the piracy and distribution of pirated signals… However, as per analysis much of such piracy occurs due to deployment of CAS that do not fully comply with security protocols as per extant standards and regulatory provisions*." The Ld.

Authority has stated, at various instances in such consultation paper, that the employment of cheaper / substandard CAS systems by DPOs expose their networks to piracy which is why it is important to establish a framework to ensure compliance with minimum technical specifications for CAS and SMS systems. As is evident from the Ld. Authority's own statements, the Indian broadcasting sector is still operating in a state akin to the analogue model despite the repeated claims of the Ld. Authority that the entire sector stands digitized and is ready to implement DAS with SMS and CAS.

4.10 The advent of NTO 1.0 and NTO 2.0, along with the unscrupulous and manipulative action of the DPOs who are using sub-standard CAS and STBs, has adversely affected the broadcasting industry and will eventually result in extinction of some of the good quality channels having limited viewership like those of DCI's. Further, the repeated and frequent changes to the regulatory framework initiated by the Ld. Authority involve significant cost for broadcasters in terms of structuring of business, marketing, negotiation with DPOs, signing formalities, etc., which prove to be a significant cost for smaller broadcasters such as DCI who is providing limited high-quality channels with very high production cost on lower price due to limited subscriber base. It is submitted that the Ld. Authority should also consider simplifying, reviewing and re-examining the provisions of the extant regulatory framework relating to the broadcasting sector in view of the technological changes that have taken place and in order to promote EoDB. It is submitted that EoDB would include: (*i) creation of a conducive and business-friendly environment in the sector; (ii) identification of regulatory bottlenecks that affect EoDB; (iii) bringing in more transparency and clarity in policies / framework of the broadcasting sector; (iv) facilitating innovation in the sector for provision of better quality of services to consumers; and (v) attracting investment through investor-friendly policies.*

5. Discipline of regulation-making: process of regulation-making adopted by TRAI flawed in approach and intuitive

5.1 It is pertinent to note that in spite of repeatedly bringing to the attention of the Ld. Authority the several critical issues and implementation constraints that are adversely affecting the

broadcasting industry as well as other stakeholders, the Ld. Authority proceeded with the implementation of the new regulatory regime under the New Regulations without taking note of these concerns. It is most respectfully submitted that any regulation-making process should pay close attention to the concerns raised by the stakeholders as the stakeholders are involved in day-to-day ground level operations and their survival depends on the well-being of the sector. The Ld. Authority has, in the present Consultation Paper, stated the following:

> "***Regulations are a fundamental and crucial aspect of the smooth operations and running of a business. Good regulations are essential for creating an environment for businesses that reduces risk, promotes confidence, supports employment, boosts manufacturing, exports, trade, and foreign direct investments. Achieving this balance is important. Though Government continues to make efforts to reduce the burden of excess regulatory provisions, yet businesses in India are still encountering regulations that many times work like 'spoke in the wheel' for its smooth rolling***.
>
> *There is a need to regularly review and simplify the policies and regulations on the following factors:*
>
> - *Impact of proposed policies and regulations*
> - *International best practices*
> - *Simplify approval processes considering the advent of ease of doing business rules internationally*
> - *Investment and business climate considering new needs*
> - *Channelize the efforts to promote manufacturing and exports.*"
>
> (Emphasis supplied)

5.2 However, the formulation of framework *de hors* the concerns of the stakeholders would result in inefficient regulation-making. The present Consultation Paper – which purports to promote EoDB in the broadcasting sector - is a confirmation of this position. It is submitted that though the present Consultation Paper is well-intentioned in its approach, i.e. it aims

to simplify and expedite the present system of licenses / permissions / registrations granted by various inter-ministerial departments from the point of view of improving EoDB, it should also be kept in mind that improvement in EoDB entails forming a conducive business and regulatory environment which encourages investor confidence, fosters innovation and quality content production, and generates employment.

5.3 DCI has repeatedly raised the issue before the Hon'ble High Court of Delhi that the New Regulations were issued without carrying out any market research or study on, or providing any empirical data or records on: (i) the state of existing DAS in India; (ii) the number of DPOs having necessary SMS system, the time period required to implement SMS systems, and the process of migration and its challenges in terms of logistics and cost; (iii) the preparedness of market for a change in regime; (iv) cost-benefit analysis for all concerned stakeholders in terms of implementation of New Regulations; and (v) completion of digitization across all regions in India. In fact, DCI had vide its communications to TRAI repeatedly requested TRAI to institute a survey on the levels of compliance by DPOs and LCOs, not only in urban areas but also in suburban and rural areas. However, the New Regulations were issued by TRAI without conducting any such market research with respect to DAS compliance.

5.4 Similarly, the repeated insistence of TRAI on doing away with the bouquet system and to bring in choice of individual channels, is yet another example where TRAI has proceeded on intuitions and presumptions without having regard to the vast literature and studies that have been carried out in different jurisdictions on the economic efficiencies of bouquet formation for broadcasters. As a result, small and niche broadcasters having high quality and costly productions, find it difficult to sustain their business in the most commercially prudent manner.

5.5 Numerous stakeholders, such as broadcasters (including DCI), consumer associations, DPOs and MSOs had raised concerns relating to the New Regulations during the consultation process and thereafter, and challenged the implementation of the New Regulations before various forums. However, TRAI did not carry out detailed analysis /

examine such issues in-depth to address those concerns at the regulation-making stage, and often provided a standard response which demonstrated lack of application of mind to the concerns of the stakeholders, or no response at all in some cases. The process of regulation-making adopted by TRAI was intuitive, without proper research and impact assessment, lacked objectivity and fairness of approach and did not meet the standards of transparency required for such a process as laid down in settled principles of law. The adverse outcome of the improper regulation-making process is now borne out by the repeated consultation papers that are being brought out by TRAI to fill up gaps in the system. This is yet again a short-sighted attempt at regulation-making, as it fails to consider the operational realities of the broadcasting sector as a whole.

5.6 TRAI, in issuing the present Consultation Paper and several others earlier, has ignored stakeholder concerns in respect of the implementation of the New Regulations altogether and is attempting to promote EoDB without first ironing out the fundamental issues raised by stakeholders. It is respectfully submitted and reiterated that the New Regulations have failed to achieve the objectives of transparency and consumer interest that have been the purported primary consideration of the Ld. Authority while framing the New Regulations. It has failed to address the concerns under the analog system, and while the New Regulations claim to be based on effective DAS, DPOs continue to enjoy the same liberties that they had enjoyed under the analog system. Consequently, the New Regulations gravely and adversely affect the interests of broadcasters such as DCI as well as the interests of the subscribers, without any change in the operations of the broadcasting industry.

5.7 Though we appreciate the initiative taken by the Ld. Authority to promote EoDB vide the issuance of the present Consultation Paper, it is submitted and reiterated that the Ld. Authority should have first addressed the grave issues outlined hereinabove and ensured that all DPOs were deploying standardised CAS and SMS systems before the commencement of the new regulatory regime in order to negate the risk of signal piracy in the first place, and so that the huge monetary loss that has been caused to the broadcasters due to the change in the entire contractual and operational framework under NTO could

have been avoided. Without resolving the aforesaid issues, it would be a futile exercise to try and strengthen the EoDB ecosystem of the broadcasting sector.

6. Cable Television Networks (Regulation) Act, 1995 ("CTN Act") has to be revisited and amended

6.1 Presently, the CTN Act and rules thereunder purports to govern content aired by broadcasters through the Programming and Advertising Codes. The current governance under the regime needs an absolute overhaul *inter alia* from the perspective of want of jurisdiction as well as from the perspective of stipulations being violative of basic tenets of freedom of speech and expression, right to do business, and for being vague and arbitrary.

6.2 We suggest introduction and revamping of mechanism to curb piracy including appropriate punishment at central and state levels for such offences in the CTN Act.

7. Infrastructure sharing

7.1 On 29.12.2021, the Ministry of Information and Broadcasting ("**MIB**") issued the "Guidelines for Sharing of Infrastructure by Multi-System Operators". It is submitted that the said guidelines are insufficient as they fail to cover critical aspects like content protection and security requirements. This will lead to an increase in piracy issues. It is submitted that broadcasters should have full right to decide whether they want to provide channels to the particular MSO and satisfy themselves that such infrastructure sharing does not lead to piracy and revenue loss. Further, the broadcasters should have a right to audit and right of termination in case such MSOs are not up to the mark.

8. Need for adoption of single and comprehensive code for governance and regulation of the broadcasting industry as a whole in place of various piecemeal Acts as none of them exclusively deals with the new challenges faced by the industry

8.1 It is already a known fact that the broadcasting industry is not governed by a single Act and as a result of the same, the concerns and challenges of the industry are presently being

governed by multiple Acts / enactments of the Parliament like the Indian Telegraph Act, 1885, the CTN Act, TRAI Act, 1997 ("**TRAI Act**"), Copyright Act, 1957, etc. and the multiple regulations laid down by one regulatory Authority i.e. TRAI under the TRAI Act. It is pertinent to mention here that TRAI under the TRAI Act not only regulates the concerns of the broadcasting sector but also regulates other sector like telecommunication etc.

9. Efficient and effective satellite capacity allocation and utilization

9.1 Satellite capacity is a crucial and expensive overhead of broadcasters. Therefore, it is important that capacity be utilized in the most efficient and cost-effective manner.

9.2 Further, the spectrum frequencies 3.7 – 4.2 GHz are earmarked for providing broadcasting services. The large geographic coverage of C-band satellite beams represents a cost-effective communication solution, while its low susceptibility and robustness to weather impairments, especially in sub-equatorial regions like India, making C-band the most suitable band to guarantee high service availability. Additionally, services in the C-band are essential in emergencies and in disaster recovery. For these reasons, C-band is irreplaceable and not substitutable. Therefore, it is imperative that the existing satellite systems operating in the C-band be protected while allocating C-band frequencies to the upcoming 5G deployment. A 100 MHz guard band in C-Band (i.e., 3.6 – 3.7 GHz) should be maintained so as to mitigate any form of interference due to provisioning of IMT services to ensure current and future C-band broadcasting services can continue to operate and thrive.

10. Response on specific issues / queries raised in the Consultation Paper

Q1. Whether the present system of licenses/permissions/registrations mentioned in para no. 2.40 or any other permissions granted by MIB requires improvement in any respect from the point of view of Ease of Doing Business (EoDB)? If yes, what steps are required to be taken in terms of:

a. Simple, online and well-defined processes

b. Simple application format with a need to review of archaic fields, information, and online submission of documents if any

c. Precise and well-documented timelines along with the possibility of deemed approval

d. Well-defined and time bound query system in place

e. Seamless integration and approvals across various ministries/ departments with the end-to-end online system

f. Procedure, timelines and online system of notice/appeal for rejection/cancellation of license/permission/registration

Give your suggestions with justification for each license/permission/ registration separately with detailed reasons along with examples of best practices if any.

Response: Generally, the process of application for grant of license / permissions / registrations before the MIB is time-consuming, due to requirement of physical applications, and delay in communication to the applicant for want of further information, documents, etc. An online portal for making applications will save time and reduce time lags in such processes. Online access to one's application will also provide much needed transparency and accountability in the whole process of grant of permission and registration.

In our opinion, the present system of licenses / permissions / registrations mentioned in para no. 2.40 of the Consultation Paper and the other permissions granted by the MIB should include the following features from the point of view of EoDB:

1. **<u>Single-window clearance system</u>**:

1.1 The integration of processes for applying for, and grant of, licenses / permissions / registrations by the MIB through a single-window clearance system will be a huge step towards ensuring EoDB in the broadcasting industry in India. A huge advantage of a single-window clearance system is the creation of a 'one-stop shop' for all applications and the

doing away of requirement of multiple applications and points of contact across various inter-departmental / inter-ministerial portals. A single-window clearance system will further help to bring in transparency, accountability and responsiveness in the ecosystem since all information will be available on a single dashboard.

1.2 A single-window clearance system will further assist in minimizing the time and effort invested by an applicant in running from pillar to post across multiple departments for submitting the hard copies of his application and responding to queries from different departments. A single-window clearance system will lead to the entire process of applying for a license and grant of such license by the MIB becoming smooth, time-bound, paperless, fast, and end-to-end online.

1.3 As stated in para 2.8 of the Consultation Paper, at present, for getting permission / license from the MIB, an applicant has to fill in the online application after logging on to the 'BroadcastSeva' portal. However, the remaining steps after submission of the online application at the portal are offline and require submission in physical format. The remaining steps in the application process should also be integrated on the 'BroadcastSeva' portal to make the whole process cost-effective, time-bound, efficient, and end-to-end online. The requirement of submission of physical copies of any application to the MIB should be made optional or completely done away with. This will streamline the process of making application pas well as grant of license / approval and ensure that it is completely integrated and accessible online in trackable response mode.

1.4 A single-window clearance system on 'BroadcastSeva' portal may also provide for a page which shows the real-time status of all applications for grant of licenses / permissions filed by other applicants, and not just the applicant concerned. This will ensure transparency and accountability in grant of license / permission with no possibility of an applicant being given any undue preference.

1.5 The 'BroadcastSeva' portal may incorporate features available in the 'National Single Window System' ("**NSWS**") - a portal wherein investors / entrepreneurs can identify, apply

and obtain regulatory approvals and compliances as under applicable laws in India. Similar to the NSWS, the 'BroadcastSeva' portal may offer the following services:

(a) Know Your Approval (KYA): This can be in the form of a questionnaire / Frequently Answered Questions ("**FAQs**") to enable applicants to navigate logistics required for application and grant of license by MIB. The FAQs may provide the list of documents required by applicants in order to apply for various clearances / registrations / licenses before the MIB. The KYA web tool may also provide guidance and directions on how to fill up online applications on the 'BroadcastSeva' portal.

(b) Document repository: Similar to the NSWS, the 'BroadcastSeva' portal may provide secure storage and access to an applicant's documents that can be uploaded / attached during the process of application.

(c) E-communication: Every applicant should have their own dashboard on the 'BroadcastSeva' portal in order to track the status of their application on a real-time basis as well as to respond to queries from different inter-ministerial departments. The entire process should be end-to-end online so as to prevent redundancy and duplication of data submission effort by the applicant. Like the NSWS web application, the 'BroadcastSeva' portal should also provide expected timelines for processing of applications for every stage.

(d) Real-time response mechanism: As stated by the Ld. Authority in the Consultation Paper, the web portal may be equipped with a chatbot, automated call centre and Artificial Intelligence (AI) based tracking, analysis, and response systems, so that an applicant is able to receive real-time responses to all his queries regarding the process / mechanism of applying, documents required, etc. Further, a tool may be made available to enable applicants to provide their feedback on the entire process of application, which will help in collecting data on how to further simplify the application process and improve EoDB.

2. **Simplified format of application**: It is submitted that the format of the application while applying for grant of any license / registration should be simplified and should only ask for crucial information.

3. **Simplified process of application**: Further, the entire process of issuance of a license / permission should be well-defined in the policy guidelines and/or any manual as deemed fit and should be available on the website of the concerned ministry / department.

4. **Timelines**:

(a) Timelines should be prescribed and adhered to strictly. Provision of deemed approval should exist wherever feasible so that timeframe for approval of various processes (for instance, change in name, language, genre, logo, format of television channels) can be fast-tracked.

(b) The Ld. Authority, in its Recommendations on Ease of Doing Business in Broadcasting Sector dated 26.02.2018 to the Government has also highlighted and emphasized on the importance of time-bound approval process. In this regard, the following extracts from the recommendations may be referred:

"3.28 The Authority has noted that the application for granting permission to broadcasting companies is examined by MHA from security perspective. However, there is no time frame prescribed within which these activities are to be carried out by MHA. This leads to business uncertainties and service providers cannot take informed decisions, due to absence of definite time frame. The Authority is of the view that there should be a definite time frame for grant of security clearance by MHA. While the prescribed time frame should be adequate enough for examining the proposal, it should not be too long as it leads to inefficiencies and additional cost to businesses. Ultimately, such costs are passed on to the consumers. The Authority is of the view that the process for grant of security clearance needs to be

streamlined so that the decision can be taken in a time bound manner. ***The decision on security clearance by MHA to a broadcasting company and its key personnel's should be taken in a maximum period of 60 days.***

…

3.34 The Authority has noted that as in case of MHA, there is no time frame prescribed for satellite clearances by DOS. This leads to business uncertainties and service providers cannot take informed decisions due to absence of a definite time frame. The Authority is of the view that there should be a definite time frame for satellite clearances by DOS. To avoid loss of time, the security clearance from MHA and clearance for satellite use from DoS should be processed in parallel. ***Accordingly, the decision on clearance for satellite use by DoS should also be taken in a maximum period of 60 days from the date of application****.*

…

3.56 Further, for new applicant of DTH service license, MIB should take decision on the application in a time bound manner. ***Seeing that the proposal for seeking license for DTH services requires security clearances and satellite clearances similar to the new broadcasters, the Authority is of the view that the decision on clearance should be taken within 60 days from the date of application. Parallel, the clearance for satellite use by DoS should also be granted within 60 days from the date of application.*** *While examination of the application for security clearance and satellite use clearance are in progress in respective Ministries, in parallel the application should be processed within MIB also.*

…

3.72 The Authority is of the view that with respect to the applications that neither requires MHA clearance nor DoS clearance, normally MIB should be able to take decision within 45 days from the date of application. In the preceding paras, the Authority has recommended that the security clearance and clearance of satellite use should be issued within 60 days. The parallel processing of applications in MIB and MHA/DoS can save a time period of at least15 days. ***Accordingly, in cases where the applicant requires security clearance from MHA or satellite clearance from DoS or in cases where both MHA and DoS clearance is necessary, the***

decision to grant permission should be taken by MIB (in consultation with MHA and DoS) should be taken within 3 months from the date of application.

…

3.89 The Authority noted that the requirement of change in the name, logo, language or format of a channel could be a business or creative need of the channel. However frequent changes in the name and logo could also be driven by some extraneous reasons and such practices need to be discouraged. ***The Authority is of the view that if the request for any change in name, logo, or language of a channel is made frequently within a year, then the MIB may carry out a detailed check and the time-line for such approval may extend up to 30 days.*** *The time period of 30 days would be sufficient to examine such repeat proposals. Normally, if the request for any change in name, logo, or language of a channel is made after more than one year from the last such change, the updated information may be taken on record. All such applications and approvals may be dealt through online portal."*

(Emphasis supplied)

(c) The importance of time-bound processes with unambiguous and definite deadlines for approvals in commercial sphere cannot be over-emphasized. The Government of India has launched an ambitious program of reforms, aimed at making it easier to do business in India. To support and actively encourage this, it is extremely critical that requests for approvals and permissions are disposed of within set timelines. This will go a long way in facilitating EoDB in the broadcasting sector, which is capital intensive and time-sensitive.

(d) For instance, if there is no change in the applicant company's name, a mere change in name and logo of any channel should not require elaborate documentation as process of seeking prior approval from MIB is a time-consuming process. A mere intimation with a processing fee should be sufficient. It is our respectful submission that changes in name / logo of a TV channel are carried out as part of business strategy to enable marketing and promotion of TV channels. In order to protect its

valuable intellectual property rights, a broadcaster necessarily obtains trademark registration of the name and logo of the TV channel. Since a broadcaster incurs significant expense to build a brand around the name and logo of its channel, so it is in its own interests to preserve the trademark and goodwill attached to such name and brand. It is, therefore, not fathomable as to why prior approval of MIB is required for displaying name and logo of a TV channel. In the absence of any stipulated timeline for grant of such approval by MIB, it would lead to unwarranted delay in operationalizing a TV channel and would, thus, cause prejudice to a broadcaster's business interests. This would be antagonistic to the EoDB policy of the Government. A copy of the trademark application submitted to the Trade Marks Registry may be considered sufficient enough by MIB for allowing a broadcaster to carry name and logo of TV channel. Alternatively, MIB may consider granting such prior approval in a time bound manner but not later than 30 days from the date of application.

(e) Timelines for raising of queries by departments, and deadline for furnishing of responses, should also be prescribed and adhered to strictly. All queries by the concerned ministry / department should be raised in one go only.

(f) The timelines for appeal (in case of rejection of application / cancellation of license) and renewal of permissions / licenses / registrations should be closely followed and expedited, wherever possible.

5. **Inter-ministerial / departmental and intra-departmental movement of files**: The inter-ministerial and inter-departmental movement of applications and approvals should be done online exclusively through a single-window clearance system and should be well-integrated. Opinion / approval of the other departments / ministries should be taken only where there is a requirement and should be done in a time-bound manner. Provision for deemed approval should be made available, wherever required. A single application number should run through all the departments / ministries so that the same can be tracked

easily by the applicant. Unless this is done, the application may get registered differently across different departments / ministries leading to delays in the process of grant of license.

6. **Integration with other ministry portals**: The 'BroadcastSeva' portal may be systematically integrated with the Ministry of Corporate Affairs ("**MCA**") portal. A common reason for the slower turnaround time in processing of applications by the MIB is the time taken by officials in verifying information provided by applicants (relating to their directors, net worth, etc.). Existing process of verifying applicant's net worth through MIB's empaneled auditors and then again through the MCA results in a wasteful duplication of effort. Integration of the 'BroadcastSeva' portal with the MCA portal will eliminate the need for manual verification of data provided by applicants and reduce the margin of error as well while fast-tracking the entire process. Net-worth certificates, balance sheets and audited account statements as certified by the statutory auditors should be the basis for processing of applications as companies already do regular filings with the Registrar of Companies.

7. **Permission for downlinking of satellite TV channels**: The existing process being followed for getting permission for downlinking of TV channels may be improved upon and further streamlined as follows:

(a) Application to the Secretary, MIB should be made online in the prescribed proforma. The application form should only ask for necessary details and any superfluous / redundant fields should be removed.

(b) Scrutiny of the application by the MIB should be done in a time-bound manner. The status of the application and whether it has been accepted / rejected should be displayed on the applicant's dashboard on the 'BroadcastSeva' portal on a real-time basis.

(c) After scrutiny of the application by the MIB, if the applicant company is found eligible, the same is sent for security clearance to the Ministry of Home Affairs ("**MHA**"). MIB's 'BroadcastSeva' portal should be thoroughly integrated with MHA's portal so that status of grant of security clearance by the MHA is available

to the applicant on a real-time basis. The same application number should be used by both the MIB and the MHA so that the same can be tracked easily by the applicant.

(d) Only a new broadcaster's application should be referred to MHA for security clearance. Existing broadcasters applying for additional channel licenses within the validity period of ten years should not be referred to the MHA. To the same effect, each time a fresh license is issued, it should contain details regarding the issuance of security clearance to the applicant and its expiry date.

8. **Permission for uplinking of TV channels**: The existing process being followed for getting permission for downlinking of TV channels may be improved upon and further streamlined as follows:

(a) Application to the Secretary, MIB should be made online in the prescribed proforma. The application form should only ask for necessary details and any superfluous / redundant fields should be removed.

(b) Scrutiny of the application by the MIB should be done in a time-bound manner. The status of the application and whether it has been accepted / rejected should be displayed on the applicant's dashboard on the 'BroadcastSeva' portal on a real-time basis.

(c) After scrutiny of the application by the MIB, if the applicant company is found eligible, the same is sent for security clearance to the MHA and for clearance of satellite use to the Department of Space ("**DOS**") (wherever required). MIB's 'BroadcastSeva' portal should be thoroughly integrated with MHA's and DOS's portal so that status of grant of security clearance by the MHA and clearance for satellite use by the DOS are available to the applicant on a real-time basis.

(d) The procedure for grant of licenses / clearances required to be obtained from the Wireless Planning & Coordination Wing should also be end-to-end online and seamlessly integrated with the other ministries' processes / portals.

(e) The same application number should be used by the concerned ministries / departments so that the same can be tracked easily by the applicant.

9. **Provision for appeal**: MIB's policy guidelines should provide for an online system of appeal by an applicant in case of rejection of its application or cancellation of its license / permission / registration. Such process should be time-bound. The reasons for rejection of application or cancellation of license / permission / registration should be made available online to the applicant, along with the concerned ministry's / department's file notings.

10. **In-person meetings**: There should be a provision for resolution of queries by the applicant via meeting with concerned officials in person in case of any issues in doing the same through virtual interface.

11. **Self-certification**: Self-certification should become the norm for submission of documents and undertakings while applying for grant of a license / registration / permission. This will enable reduction of transaction costs, speed up information-sharing, procedures and formalities and significantly increase the rate of regulatory approvals. Since the main advantage of self-certification is to reduce administrative costs and transaction time, this will truly strengthen EoDB. For MIB approvals and applications, self-certification on company's letterheads should be promoted in various affidavits / undertakings instead of attestation by notary public on stamp papers.

12. **Prior approval for upgradation**: Para 5.5 of the Policy Guidelines for Downlinking of Television Channels, 2011 provides that an applicant company should obtain prior approval of the MIB before undertaking any upgradation, expansion or any other changes in the downlinking and distribution system / network configuration. It is submitted that owing to the inherent nature of the broadcasting business, there are constant technological developments taking place geared towards better performance and enhancing the experience of the end consumers. Therefore, frequent upgradation of equipment including, inter alia, increase in bandwidth capacity on existing transponder to ease congestion, shift to higher capacity transponder on the same satellite, changes in audio configuration, changes in service ID on downlinking stream, etc. are fairly common. In view of these being minor changes, it is very onerous and impractical for a broadcaster to repeatedly seek prior permissions for such frequent upgradations from MIB. This also mars operational

efficiency of the broadcaster and causes avoidable business interruptions. Moreover, these upgradations do not pose any security risk.

13. **Change of name and logo**: The broadcasting sector is very dynamic in nature and has to keep up with consumer interests. The sector needs to constantly innovate in order to keep consumer interest alive. Presently, any change in the name and logo of a TV channel takes roughly 4-6 months. It is suggested that:

(a) A mere change in name and / or logo of any channel with no change in the technical parameters of an on-air channel (i.e., no change in teleport, no change in frequency, no change in satellite or transponder, or no dual illumination, or no change in ownership involved) should not require elaborate documentation and become a time-consuming process. A mere intimation should be sufficient.

(b) In case of change in name and logo of a channel, the said changes should also be applied online. Requisite acknowledgement of intimation should be issued by MIB online itself on a real-time basis.

14. **Change in format and language**:

(a) Once a broadcaster has acquired necessary uplinking and downlinking permissions, it may be allowed to broadcast different variants of a TV channel such as SD, HD, 4K, etc. when the TV channel programming remains the same in all versions. Notwithstanding the above, the MIB may require the broadcaster to pay separate fees for each of the formats.

(b) With respect to change in language, the same should be permitted based upon an intimation by the respective broadcaster to the MIB. As it is, any programming or content, in any language, is subject to the self-regulatory mechanism including adherence with the Advertising and Programming Codes for programming and

content. Hence, instituting a heavy-handed regulatory structure for the same than the framework already existing would not be consistent with EoDB.

15. **Transfer of licenses:** The market forces are dynamic in nature and companies restructure to enhance the operational efficiency of that organization. There is a need to align the Policy Guidelines for Uplinking and Downlinking of Television Channels, 2011 ("**2011 Guidelines**") with the provisions of the Companies Act, 2013 ("**CA 2013**"). Hence, with a view to improve EoDB in the sector, our proposal is to consider:

(a) If both the transferor company and transferee company are holders of permission under the relevant guidelines, then the MIB should grant permission for transfer of the permission held by the transferor company to the transferee company within the thirty-day period set forth under Section 230 of the CA 2013, subject to the net worth criteria being met by the transferee company post approval of the amalgamation, merger or demerger being approved pursuant to the provisions of the CA 2013.

(b) Similarly, in case of transfer of business or undertaking in whole or part by way of a slump sale or an asset transfer, if both the transferor company and the transferee company are holders of permission under the relevant guidelines, the MIB should grant approval within a stipulated period of 15 / 30 days, subject to the transferee company meeting the net worth criteria.

(c) In so far as the transferee company is not a holder of permission for uplinking of a TV channel under the 2011 Guidelines, the MIB should make its representation to the proposal for merger, demerger, etc. within the time stipulated under the provisions of Section 230 of the CA 2013. Else, it should be presumed that the proposal is approved subject to security clearance and net worth criteria being met.

16. **Approval from MHA**:

(a) Broadcasters holding existing uplinking and downlinking permissions of TV channels need to obtain security clearance from the MHA every time they make an application for new channels / renewals. This requirement should be removed. A one-time clearance given to the broadcaster should suffice as long as there is no change of ownership. Security clearance once granted should be valid till the operational existence of the broadcaster, irrespective of the number of applications for new channels / renewals submitted by the broadcaster.

(b) The requirement of obtaining prior approval of MHA in case of appointment of director by companies overlaps with the compliance requirement mentioned under the CA 2013 and should be deleted.

(c) It should be clarified that channel permission once obtained shall be valid for a few years, viz., ten years instead of requiring yearly renewal.

Q15. Whether the present system of permissions/registrations mentioned in para no. 5.10 or any other permissions granted by MeitY along with BIS, requires improvement in any respect from the point of view of Ease of Doing Business (EoDB)? If yes, what steps are required to be taken in terms of:

(a) Simple, online and well-defined processes

(b) Simple application format with a need to review of archaic fields, information, and online submission of documents if any

(c) Precise and well-documented timelines along with the possibility of deemed approval

(d) Well-defined and time bound query system in place

(e) Seamless integration and approvals across various ministries/ departments with the end-to-end online system

(f) Procedure, timelines and online system of notice/appeal for rejection/cancellation of permission/registration

Give your suggestions with justification for each permission/ registration separately with detailed reasons along with examples of best practices if any.

Response: TRAI should make it mandatory upon the distribution platforms to only use equipment certified by BIS to ensure quality of service to the end consumers, protection of content and stoppage of revenue leakages to all the stakeholders which include the public exchequer. Furthermore, BIS should prescribe robust content / security requirements.

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

Response: The broadcasters are required to upload requisite information in respect of interconnection agreements under the Telecommunication (Broadcasting and Cable) Services Register of Interconnection Agreements and all such other matters Regulations, 2019 on the BIPS portal. The portal was launched in the year 2020 and even after two years, the broadcasters face multiple issues like inability to upload documents, absence of editable and bulk option, missing data viz., channel & bouquet details, DPOs, etc. while uploading the information sought by TRAI. On numerous occasions, these concerns have been highlighted to TRAI by DCI by way of letters. However, till date most of these are not resolved.

It also pertinent to point out that earlier, DCI was required to file the information once a year by 31st July; however, presently, the requirement is to file the interconnection agreement within 30 days of the execution of the agreement. This makes the entire process cumbersome and time-consuming and is against the spirit of EoDB.

We suggest that the required information may be allowed to be filled on a yearly basis with ability to upload bulk data on Microsoft Excel format. Additionally, it is suggested that the BIPS portal should have the ability to extract data from the Microsoft Excel file and upload the same under relevant heads on the BIPS portal.

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

Response: It is suggested that the BIPS portal may be simplified and equipped with Artificial Intelligence tools so that the portal may not reject information due to typographical error. It should have the ability to upload bulk data from Microsoft Excel files or similar formats so that the portal can pick up data seamlessly and at a greater speed. It should do away with the requirement of manual entries as this increases inefficiency and make the process time-consuming. Further, the portal should have the ability to pull data from Microsoft Excel files, etc. instead of there being a requirement to manually make entries.

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

Response: The other issues with the present system of licenses / permissions / registrations granted are as follows:

(a) Use of "Freeband" technology: A technology by the name of "Freeband" where the satellite bandwidth capacity used for channel transmission over the entire transponder can be used for a return contribution feed from the venue on the same satellite transponder capacity simultaneously. This requires a specialized and

combined modulator – demodulator at the transmission teleport. Regulatory framework that permits the usage of such technology needs to be explored.

(b) Resolving frequency theft: There have been incidents of "rogue carrier" uplinking which seriously affects the broadcasters' authorized frequency uplink and leads to blackout of broadcaster's signals till the rogue carrier exists. These "rogue carriers" are nothing but uplink carriers put on the licensed frequency by unknown entities for which the licensed broadcaster has the license. These rogue carriers may be due to accidental radiation or purposeful radiation with higher uplink power than what is approved to the broadcaster thus overwhelming the broadcasters' uplink carrier. It is requested that the WPC and NOCC departments should actively look into such issues when presented by the broadcaster with evidence and identify such sources of rogue carriers and define regulation to penalize such sources of rogue carriers and even forfeit the licenses of such up-linkers if proved guilty of purposeful disruption. Broadcasters have experienced rogue carrier activity during 2016 – 17 for durations ranging from few minutes to few hours on all its approved transponders. The broadcaster pays annual fees to WPC for use of these frequencies which are approved by WPC; hence, WPC should devise means to track such rogue carrier sources and take corrective actions.

(c) Disaster preparedness for broadcast facilities: Disaster preparedness for both teleport and satellites needs to be implemented on an urgent basis given the increasing occurrence of natural disasters such as earthquakes, floods, etc. or possible law and order situations. In case of any disaster on ground involving a teleport, the broadcaster should be allowed to use any approved teleport in any city till such time that the issues with the approved teleport are resolved. To ensure ease of implementation and enable continuity of service without undue disruption, an intimation in this regard may be required to be sent to MIB / DOS and no approval be required for the same.

The comments / views of DCI are without prejudice to their rights and contentions in the proceedings pending before the Hon'ble Delhi High Court in W.P. (C) No. 6915 of 2017, W.P. (C) No. 9431 of 2019 and W.P. (C) 2284 of 2020.