

From: [mediawatchindia123@gmail.com](mailto:mediawatchindia123@gmail.com)

To: "Sanjeev Kumar Sharma" <[advbbpa@traai.gov.in](mailto:advbbpa@traai.gov.in)>

Cc: "SanjayKumar" <[jtadv-bbpa@traai.gov.in](mailto:jtadv-bbpa@traai.gov.in)>

Sent: Friday, March 31, 2023 11:44:42 PM

Subject: MediaWatch-India's Comments on Regulating Converged Digital Technologies and Services

To

Shri Sanjeev Kumar Sharma,  
Advisor (Broadband and Policy Analysis),  
Telecom Regulatory Authority of India.

Sir,

On behalf of 'MediaWatch-India', below are the point-wise responses for the consultation on "Regulating Converged Digital Technologies and Services" :

Q1. Whether the present laws are adequate to deal with convergence of

carriage of broadcasting services and telecommunication services? If yes, please explain how? OR

Whether the existing laws need to be amended to bring in synergies amongst different acts to deal with convergence of carriage of broadcasting services and telecommunication services? If yes, please explain with reasons and what amendments are required? OR

Whether there is a need for having a comprehensive/converged legal framework (separate Comprehensive Code) to deal with convergence of carriage of broadcasting services and telecommunication services? If yes, provide details of the suggested comprehensive code.

Response: There is a need for a comprehensive/converged law for broadcasting and telecom. Related issues pertaining to Space, MeitY also shall be incorporated in this law.

Q2. Whether the present regime of separate licenses and distinct

administrative establishments under different ministries for processing and taking decisions on licensing issues, are able to adequately handle convergence of carriage of broadcasting services and telecommunication services?

If yes, please explain how?

If no, what should be the suggested alternative licensing and administrative framework/architecture/establishment that facilitates the orderly growth of telecom and broadcasting sectors while handling challenges being posed by convergence? Please provide details.

Response: No, existing regime is disjointed, outdated, inefficient and bureaucratic. All the technical and procedural matters like licensing etc. should be given to independent statutory converged regulator while the Govt. can concentrate and steer overall policy and modernising the law.

Q3. How various institutional establishment dealing with -

(a) Standardization, testing and certification.

(b) Training and Skilling.

(c) Research & Development; and (d) Promotion of industries

under different ministries can be synergized effectively to serve in the converged era. Please provide institution wise details along with justification.

Comments: These functions also, as far as they relate to converged broadcast and telecom shall be under the supervision of the converged regulatory authority.

Q4. What steps are required to be taken for establishing a unified policy framework and spectrum management regime for the carriage of broadcasting services and telecommunication services? Kindly provide details with justification.

Response: A truly independent regulator equipped with powers shall be established to manage most of the technical functions presently being handled by different ministries including spectrum management . For example, in about three-quarters of countries, Regulatory authorities are responsible for spectrum management and only in about one in four countries, the sector ministry handles spectrum management (ITU, 2019). One

of the international best practices in spectrum management is to establish and maintain a national spectrum management organization, either independent or part of the telecommunication regulatory authority. Except for giving a brief overview of global practices, the Pros and cons of different global approaches were not sufficiently detailed in the consultation paper.

An OfCom type of regulator shall be set up with due independence and accountable to Parliament. It shall have specialised verticals to take care of myriad functions such as Grant of licences, spectrum and frequency allocation, laying down standards and technical conditions, interoperability, regulating market access and competition issues , quality of service, interconnection and tariff , consumer protection and complaint redressal, sharing of infrastructure etc. For regulating content, an independent council with representatives from different sections of the society . This will be part of the converged regulator for administrative convenience but autonomous in all aspects.

Q5. Beyond restructuring of legal, licensing, and regulatory frameworks of carriage of broadcasting services and telecommunication services, whether other issues also need to be addressed for reaping the benefits of convergence holistically? What other issues would need addressing? Please provide full details with suggested changes, if any.

Comments: Even in its second iteration of convergence reform, TRAI's Consultation doesn't sound holistic and appears more on how to distribute the existing functions among the ministries or to make single ministry as nodal authority for multiple functions . This is more because of lack of vision on part of Government of India. Ideally the approach in consultation should be to enumerate all possible functions and discuss suitability of the bodies (ministry or regulator) to handle different functions and weigh the pros and cons, especially in the light of international experiences and Indian realities. The approach should be to create a truly independent convergent regulator equipped with powers to manage most of the technical functions presently being handled by different ministries.

Comments on Content Regulation:

Content regulation not being in the terms of reference itself indicates that the entire exercise of convergent regulation is piece - meal and no proper homework was done at the highest levels of the Government . The Paper itself notes that in [December 2020](#), the National Institution for Transforming India (NITI) Aayog had convened a meeting of representatives from various ministries and organizations, inter-alia, including TRAI, DoT, MeitY and DPIIT to discuss the 'Principles for India's Digital Economy' and that it was discussed that " Given that the matter is in an inter-ministerial space - there is a need for a single body to bring all ministries onto one platform for consistent, focused and time-bound discussions for framing of the law in a mission mode approach. It may be decided either by the Cabinet Secretariat or the PMO regarding the way forward and the institutional mechanism to lead this exercise. " This clearly suggests that TRAI is not the suited to take up the consultation on convergent regulation (at least at this stage) but an apex body should have deliberated and finalised the basic principles of convergent regulation and then floated for consultation.

MWI feels that content regulation shall be part of the convergent regulation framework. The brief comments of MIB on such an important aspect of content regulation are casual and made with complete lack of vision.

MIB stated that "Regulation of content requires separate skill sets of creative and artistic persons than that of technocrats or economists who can factor the impact of content on sensibilities, morals, and the value system of the society " and proceeded to conclude the " content policy and regulation should also continue with the MIB. "

MIB is correct that content regulation should factor in sensibilities and values but one wonders how a Govt. ministry will have "these separate skills of artistic and creative persons" and how MIB can ensure taking care of "sensibilities, morals, and the value system ". The view of MIB is self-contradictory and only reflects the Government's intention to retain control on media content. The letter is signed by an under secretary and doesn't even quote at which level the view was taken/approved. Whether content regulation should continue to be done by ministry or an independent

regulatory authority should be decided by the government at the highest level.

India is perhaps the only democracy where a minister or secretary finally decides whether a content on television or OTT is objectionable or not and that too based on recommendations of a committee of bureaucrats (inter ministerial committee) . It is high time this colonial sort of scheme shall change and government shows the maturity to maintain armslength distance from the sensitive aspect of 'regulating' content and entrust the same to an independent council with representatives from different sections of the society.

While MWI appreciates the limited mandate of TRAI to comment on content policy and regulation, it will in wider public interest if TRAI can escalate the matter to NITI Ayog/PMO/Cabinet Secretariat for a policy decision, especially because the Indian case of not having independent body for content is a serious anomaly and against the democratic ethos.

Yours sincerely,

Edara Gopi Chand,

Vice-President, 'MediaWatch-India' ,

#11-7-17, Navodaya Nagar,

Narasaraopet - 522601,

Palnadu District, Andhra Pradesh .

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