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July 28, 2014

**Mr. Agneshwar Sen**

Advisor (B&CS)

Telecom Regulatory Authority of India

Mahanagar Doorsanchar Bhawan

Jawahar Lal Nehru Marg,

**New Delhi – 110 002**

Dear Sir,

**Re: Consultation Paper on Regulatory Framework for Platform Services**

Please find below the response of the News Broadcasters Association (“NBA”) to the relevant and material issues contained in Consultation Paper dated 23<sup>rd</sup> June 2014 on Regulatory Framework for Platform Services (the “Consultation Paper”) :

The queries/issues for consultation are :

**Query 1. Do you agree with the following definition for Platform Services (PS)? If not, please suggest an alternative definition:**

“Platform services (PS) are programs transmitted by Distribution Platform Operators (DPOs) exclusively to their own subscribers and does not include Doordarshan channels and TV channels permitted under downlinking guidelines.”

**NBA Response:**

In order that the definition is more meaningful, the NBA suggests the following alternate definition :

“Platform Services (PS) are value-added services, that include audio & video programming, gaming and others (but does not include social media content), which are offered by the Distribution Platform Operators (DPOs) to its subscribers (apart from and in addition to the re-



transmission service of satellite channels on its distribution platform).”

**Query 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;**

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**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.**

**NBA Response:**

NBA agrees with the proposals as contained in 2.1.1, 2.1.2, 2.1.3 and 2.1.4 above. NBA also agrees with the proposals as contained in 2.2.1, 2.2.2, 2.2.3, 2.2.4, 2.2.5 and 2.2.6 above. An important caveat however is that PS must be subject to the entire regulatory regime as broadcasters are subject to under the Cable TV Act and Cable TV Rules in relation particularly to the Programme Code and Advertising Code.

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

**NBA Response:**

Imposing any regulation on PS without effectively monitoring it would render the entire scheme meaningless. Therefore a continuous monitoring of PS channels should be put in place as exists for regular broadcasters through the EMMC or other similar mechanisms established at the State and District levels, perhaps through the State and District Content Committees.

**Query 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?**

**NBA Response:**

Only corporate entitled duly registered under the Companies Act should be allowed to operate as DPOs since such registration would ensure proper credibility of the entity, transparency in and liability for dealings, financial regulation etc., which is necessary for entities that will deal with the general public.

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

**NBA Response:**

If news, current affairs programs and coverage of political events is not permitted on PS channels, as NBA has recommended above, NBA would not be concerned with any FDI restrictions on DPOs.

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

**NBA Response:**

The essential purpose of fixing minimum net-worth requirements on broadcasters is to ensure a level of resources, quality and overall business seriousness on the part of the operator. Accordingly, NBA recommends that there should be some minimum net-worth required for offering PS channels, more particularly for entities operating cable services. However, it may not be practical to set-down the same net worth criteria for DPOs operating in different geographical locations ; and therefore TRAI may make zone-wise categorization for minimum net-worth for PS services to ensure level playing field DPOs operating in different areas of the country.

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

**NBA Response:**

If the NBA position that PS channels should not be permitted to carry news and/or current affairs programs and coverage of political events, then and in that event, there would be no requirement of elaborate security clearances / conditions for the DPOs ; however, as stated above, DPOs and PS channels must be subject to the same regulatory restrictions as private satellite TV channels under the Programme Code and Advertising Code under the Cable TV Act and Cable TV Rules.

**Query 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?**





**NBA Response:**

DPOs should be granted on-line registration for a period of 5 years at a time. On-line registration should be followed-up with physical cross-verification of information filed by DPOs. NBA has no input to offer on the quantum of registration fee and annual fee payable by PS channels. However, in the NBA's view that the registration fee and annual fee payable by PS channels on local cable platform and other platforms such as DTH, IPTV and HITS should be different, with the registration fee and annual fee payable by platforms such as MSO, DTH, IPTV and HITS being much higher than that payable by cable platforms since the former have a national presence unlike the latter which are only local.

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

**NBA Response:**

Permissions granted to PS channels must be renewed only on compliance by such channels of the regulatory regime applicable to all broadcasters, including the Programme Code and Advertising Code under the Cable TV Act and Cable TV Rules. Since the TRAI has no jurisdiction over content broadcast over TV channels, clearance of the Ministry of Information & Broadcasting (which deals with all content related matters) must also be taken as to the violations of the Programme Code and/or the Advertising Code committed by the PS channels (keeping in view the amended provisions of the Uplinking-Dowlinking Guidelines dated 5<sup>th</sup> December 2011).

**Query 10. Should there be any limits in terms of geographical area for PS channels? If yes what should be these limits.**

**NBA Response:**

Insofar as PS channels on MSO, DTH, IPTV and HITS are concerned, there need not be any geographical limits ; but insofar as PS channels on local cable platforms are concerned, these should be confined to their own local areas (as may be specified in their registrations/permissions).

**Query 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?**



**NBA Response:**

There is no necessity for laying down any limit on the number of PS channels that a DPO may operate.

**Query 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; and**

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

**NBA Response:**

NBA view is that all obligations/restrictions on DPOs as set-out in points 12.1, 12.2 and 12.3 above are valid and must be imposed.

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

**NBA Response:**

The other obligations/restrictions to be imposed on DPOs are those contained in the Programme Code and Advertising Code contained in the Cable TV Act and Cable TV Rules.

**Query 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?**

**NBA Response:**

NBA has no comment to offer on this query.





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

**NBA Response:**

Content monitoring units should be set-up at District and State levels to monitor PS channels on local cable platforms ; PS channels on other platforms should be monitored through the provisions of the Cable TV Act and Cable TV Rules just like private satellite channels.

**Query 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.

**NBA Response:**

All provisions, including penal provisions, applicable to private satellite TV channels must apply to PS channels on any DPO.

**Query 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?

**NBA Response:**

The terms and conditions for DPOs for regulating PS channels should be the same as those applicable to private satellite TV channels under the Uplinking/ Downlinking guidelines. NBA recommends that an additional term that may be included should be to the effect that all PS channels must be members of, and be subject to, content regulation by a self-regulatory body (even though, in line with the foregoing suggestions, a PS channel will not be a news channels and will not be eligible to be a member of the NBA, but in the larger interest of free speech, NBA suggests that it be made mandatory for every PS channel to be a member of a self-regulatory regime dealing with general entertainment broadcasters.)

**Query 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?

**NBA Response:**

PS channels may be granted 3 months to register with the MIB as such. However the Programme Code and Advertising Code under the Cable TV Act and Cable TV Rules must become applicable on PS channels with immediate effect.

**Query 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.

**NBA Response:**

As stated above, NBA is of the view that it be made mandatory for every PS channel to be a member of a self-regulatory regime in relation to the content carried on such channel.

Essentially local cable operators operating their own local TV channels are free of the myriad rules, regulations, criteria and conditions that apply to private satellite TV channels (except some basic requirements required only for purposes of registration as cable operators), which requirements are actually meant to make them accountable only for their business as cable operators NOT as persons broadcasting content to viewers on their local TV channels. In summation, NBA's stand is that as much accountability must be imposed upon PS channels as is imposed upon private satellite TV channels since both engage in the same activity.

Yours faithfully,

A handwritten signature in blue ink that reads "Annie Joseph".

Annie Joseph  
Secretary General  
News Broadcasters Association  
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