

July 29, 2014

To:
Mr. Agneshwar Sen,
Advisor (B&CS)
Telecom Regulatory Authority of India,
MahanagarDoorsancharBhawan,
Jawaharlal Nehru Marg,
New Delhi- 110002.

Kind Attention: Shri Agneshwar Sen, Advisor (B & CS)

Subject: Response to Telecom Regulatory Authority of India consultation paper dated June 23rd, 2014 - Regulatory Framework on Platform Services.

Ref: Consultation paper dated June 23rd, 2014 - Regulatory Framework on Platform Services.

Dear Sir,

Local channels play a complimentary role and not conflicting role:

- We would like to submit that the local Channels can play a major role in society. More than half of the Country's population live in rural areas and it is essential for the media to bring out the best of events at a village level and address the types of problems faced by villages, rural and small towns.
- The local channels are the voice of the problems of the local people and speak their language and are thus capable of influencing their opinion.
 - The local channels enjoy an edge since they have their finger on the pulse of the local population, know the importance of local individuals, respect the local culture & events and are more in tune to the tastes and dislikes of the local public.
 - The importance of the Local Channels also lies in the fact that they deal with local incidents/issues extensively in a manner which can never be matched by the national or state level channels.
- The local channels, together with small newspapers, can both be the ears and voice of the public and work as a conduit between the public, policymakers & local authorities by bringing to the notice of the authorities, the grievances, difficulties and the needs of the local people, simultaneously also carrying to the people the type of news/information they need from the authorities.

Separate place for Local Channels:

- As explained above the national and state level channels, at their nature, due to constraints in time and largest population it has to cover, they tend to ignore the local public needs and tastes.
- The private broadcasting and Doordarshan channels are mostly concentrating on the state and national level news and are not aware of the needs and problems of the rural, small town and local public needs.

- By virtue of its inherent quality and sensitivity to local sentiments and problems the local channels will have its own role to play in the society.
- These two can co-exist without any threat to each other and that they exist and thrive because a niche exists specially for these channels.

Curbing out the Fly - by – night Channels:

- Some local channels are often criticized for ignoring ethical values, Professional standards. They modify the news for settling personal scores.
- However, there is an absolute need to identify and isolate the "fly-by-night" Channels that compromise ethical and professional standards.
- Regulatory framework and periodical compliance reports should play a role in restricting such fly-by-night channels.
 - The primary concern should be that these local channels should not be allowed to copy the content of the said Doordarshan and broadcasting channels.
 - The content should be owned by DPO. The news relevant to the particular market should be allowed to be covered by the DPO.
- But that is no reason to loose sight of the very important vacuum being filled by the Local Channels in the information communication chain.

Conclusion:

There is a need to protect and promote the genuine Local Channels in keeping with the country's commitment to establish a socialistic society and to encourage plurality of opinion and sources of information to strengthen democracy. By this the local channels can perform as the best vehicle for strengthening the roots of democracy and the process of development.

On 24th July 2014, the Government has come up with approved guidelines for FM Radio Phase III, and the guidelines authorising the FM Radio channels i.e. permission - holders be permitted to carry news bulletins of All India Radio in "exactly same format" on terms agreed with public broadcaster Prasar Bharti. While being so the Authority may also consider the same kind of guidelines for Platform services as well. Restricting only the platforms services from transmitting news and current affairs will amount to discrimination between various services providers.

Hence the Authority is requested to consider the following while giving its recommendation to Government of India.

- The local channels should be allowed to publish the news, current affairs, political news and local political that are happening within its geographical area of publication so as to address the concerns of local public.

In furtherance to the above explanation given, we hereby submit our comments on the below mentioned question raised by the Authority in its above referred consultation paper as follows:





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."

The definition may also include the word "either directly or indirectly" in the definition. The reason is that most of the MSOs in the Country own their channel in their parent company name and may distribute through their LCOs and JV partners. Though the JV Partners and the respective channels are restricted to such area of operation the ownership of channel cannot be assigned to their JV partner due to business reasons and hence the ownership should be with Parent Company. Hence the definition may be modified as follows:

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

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

2.1. 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.

Internet has liberalised news creation and dissemination across geographies – direction of the policy should be to recognise this reality and create the framework in which news platforms are allowed to co-exist and regulated. Preventing Platform Service Providers from covering local news goes against this thought process. If MSO/DPO is not allowed to air news, rumour mongering thru Social networking and blogging will be the only source of information – this is not the right framework to be encouraged by Policy makers.

The word "national and world" may be included in the point number 2.1.1 and 2.1.2 stating as follows:

2.1.1 Any national and world news and/or current affairs programs,

2.1.2 Coverage of national and world political events of any nature,

As explained in the paragraphs above, Local news, current affairs, political and sports events which are not covered by broadcasting /Doordarshan channels or which do not require broadcasting rights should be permitted to the local channel. The sports event and tournaments at the state level should be included in the permissible list as MSOs/DPOs operating in more than one district in a state. We are agreeable to the restrictions imposed in 2.1.3 and 2.1.4.

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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 counselling, 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.

The primary concern is the broadcasting rights of private broadcasting channels and Doordarshan channels should not be violated / trespassed by the local channels. The respective DPO should own the contents it transmits.

Option I:

We request Authority to consider the fact that defining both non-permitted contents and permitted contents may lead to lot of ambiguity. Hence it would be ideal to define that "any other contents which are not covered in clause 2.1 above (i.e. 2.1.1 to 2.1.4) should be permitted for transmission through platform services.

Option II

If still the Authority feels it necessary to define the permissible contents then, we request authority to consider including the below mentioned list within the permissible transmit list by Platform services:

- a. News and current affairs within the geography of local channels registered.
- b. Local political events within the geography of local channels registered.
- c. Live coverage of Sporting events and tournaments within state level i.e. between district teams where no broadcasting rights are required.
- d. Live shows conducted within districts and / or within state levels. This will also include the local authorities' informative programs to citizen within district and / or within state level.
- e. Informative messages and alerts on the public transportation system like traffic, train, bus timings and other transport informations etc.
- f. Cultural programs conducted by educational institutions within district and state level.
- g. Weekly update on local level events and news where no broadcasting rights are required.
- h. Devotional songs, movie Songs, albums and comedy clips from movies for which authorisation obtained by the DPOs from authorised distributors.
- i. Devotional programs within district/state level.





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

- A periodic review by an agency identified once every 6 months would effectively curb the trespassing of PS trespassing into the domain of TV broadcasters.
- To prevent PS trespassing into the domain of TV broadcasters, Authority may also recommend for a separate wing, under the Licensor, to monitor Platform Services at every state/district level as deem fit.
 - DPOs should be directed to frame its own voluntary code of conduct and submit the same with Authority and said proposed monitoring wing.
 - The DPOs should be directed to submit periodic reports to the said wing on contents they transmit, quality of services and compliance on programming and advertisement code in a prescribed format.

This reporting system and monitoring system will play an effective role to prevent trespassing by few channels (fly-by-night) channels.

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?

Only companies registered under Companies Act to be permitted to operate Platform services.

5. Views, if any, on FDI limits?

In this phase of growing telecommunication sector in India, the trend is to liberalize media. In the age of Internet one can read New York Times, watch any TV Channel or any other video on YouTube. Platform services do not fall under any of the logical categories that require FDI restrictions either in national interest or to safeguard jobs/ other strategic objectives of policy making. Under these circumstances there is no need for further complicating the regulations by imposing FDI limits of news on local channels/platform services which cover local issues and events that is relevant to particular area.

Just in case, if Authority feels it necessary to prescribe the FDI guidelines then we submit that FDI Limits permitted for MSO should be the threshold limit for PS services to avoid any inconsistency in FDI limits.

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

There is no Minimum Net worth limit fixed for MSO registration. Hence the same principle shall be applied to the Platform services.

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

We are agreeable to the security clearance conditions for the platform services at par with MSO to go through the security clearance for the permanent registration.

The Authority, while giving its recommendations, requested to consider the fact that MSO have obtained security clearance while obtaining registration to operate as MSO in DAS notified area. And if such MSO applies for registration of platform services, then the separate security clearance for the said platform services may kindly be waived off.

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?

Same validity period that of registered MSO i.e. 10 years to be granted for platform services. We recommend that Annual fee can be fixed depending on the size of the city/village or subscriber base of particular DPO. The fixing of annual fee based on circulation is applicable for newspaper as well and the same is fixed based on their circulation. Hence the same principle may also be followed for platform services.

9. What is your proposal for renewal of permission?

Periodic renewal for 10 years may be granted.

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

State level can be the limit on Geographical area. As most of the MSOs/DPOs own their own channels and supply their signals through their JV partners to a district level /state level population.

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?

There should not be any limit as the content to be run on channels is restricted and as such the number of channels to be operated by PS should be left to market forces.

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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.

With regard to clause 12.1, we submit that the transmission and retransmission rights of channels should be permitted within group, subsidiary, associate companies of MSO/DPO and its various JV partners in a state level.

The clauses in 12.2 and 12.3 are agreeable to us.

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

- Authority may recommend for the formation of a separate wing to monitor Platform Services at every state/district level as deem fit. DPOs should be directed to frame its own voluntary code of conduct and submit the same with authority and said monitoring wing. Further DPOs can also be directed to submit periodic reports to the said wing on contents they transmit, quality of services and following up on programming and advertisement code in a prescribed format.
- DPOs can be directed to make available the list of their local channels to the said monitoring wing recommended hereinabove.
- Content preservation period to be prescribed for Platform services which is at par to that of the broadcasting channel so that audit can be carried out by the Authority or by the said Wing at given point of time.

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?

MSO/DPO should be permitted to re-transmit the permitted and operational FM radio channels under suitable arrangement with FM operator in its area of operation. Since the same is restricted to particular geography area the services through internet as Over-the-Top services can be specifically prevented by regulation.

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

Authority may consider and recommend for formation of a separate wing for monitoring the platform services which should be suitable. Or else the monitoring mechanism available at state and district level for the private satellite channels can be assigned with the monitoring of Platform services/local channels also.

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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.

The same is agreeable to us as it will also curb the “fly-by-night” channels that compromise on ethics and professional standards.

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?

As suggested in in query no 13 may be passed in regulation and reference to the same in licensing condition on binding obligation may be passed through amendment in the existing registration/ guidelines/ permission/ license agreements.

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?

One year period may be given as transition period. The Authority may also consider recommending for transitions period as like that of digitalisation phase depending upon the geographical area of service.

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.

- The suggestion made in query in 13 is repeated here for the kind perusal of the Authority.
- We also urge the Authority for recommending Government to consider offering Local channels loans at lower rate of interest for technological improvement, making State level news available to them through local public relations offices, and subscribing/transmitting/made available of such channels to the said monitoring wing recommended hereinabove.

Thanking you

Yours Sincerely,

For and on behalf of Atria Convergence Technologies Private Limited,
Kable First India Private Limited,
ACN cable Private Limited,
ACT Digital Home Entertainment Private Limited,

A handwritten signature in blue ink, appearing to read 'C.N. Subhakar', is written over the typed name of the authorized signatory.

Authorised Signatory