

**CONSULTATION PAPER DATED 19TH DECEMBER, 2017 ON ISSUES
RELATING TO UPLINKING AND DOWNLINKING OF TELEVISION
CHANNELS IN INDIA**

Our comments to each of the issues raised by the Authority in this consultation paper are captured below :

**Definition of 'News and Current Affairs channels' and Non-
'News and Current Affairs Channels'**

- 4.1 **Is there any need to redefine “News and Current Affairs TV channels”, and Non-News and Current Affairs TV channels” more specifically? if yes, kindly suggest suitable definitions of “News and Current Affairs TV channels” and Non-News and Current Affairs TV channels” with justification.**

TN (Times Network) Comments:

No, there is no need to further elaborate the definitions of “News and Current Affairs TV channels”, and Non-News and Current Affairs TV channels” as the present definition clearly differentiates between a news channel and a non-news channel.

Net-worth of eligible companies

- 4.2 **Should net-worth requirement of the applicant company for granting uplinking permission, and/ or downlinking permission be increased? If yes, how much should it be? Please elaborate with appropriate justification.**

TN Comments:

No, the present net worth requirement is adequate enough. Any further increase in the net worth requirement will deter new players entering the broadcasting foray.

4.3 Should there be different net-worth requirements for uplinking of News and non-News channels? Give your suggestions with justification?

TN Comments:

Yes, the infrastructure and capital requirement for News & non-News channels vary to a great extent and hence the present differential requirements stipulated are justified.

However, we recommend that there should be lower net worth requirement for those channels which are uplinked from India, but targeted for other countries. Also, the Regional Channels (other than Hindi & English language channels) should be subjected to lower net worth requirement.

The structure of net worth requirement could be as follows:

Uplink/DownlinkPermission	News Channels	Non-News Channels
Channels which are uplinked from India and downlinked in India	National : 1st Channel -- Rs. 20 crs & for each additional channel Rs. 5 crs. Regional : 1st Channel : Rs. 10 Crores and for each additional Channel Rs. 2.5 Crores.	National: 1st Channel -- Rs. 5 crs & for each additional channel Rs. 2.5 crs. Regional Language: 1st Channel -- Rs. 2.5 crs & for each additional channel Rs. 1.5 crs.
Channels which are uplinked from India but not downlinked in India	1st Channel -- Rs. 10 crs & for each additional channel Rs. 5 crs. Ir-respective of	1st Channel -- Rs. 2.5 crs & for each additional channel Rs. 1.5 crs.

	language of the channel, whether its Hindi, English or Regional.	
Channels which are uplinked from outside India but downlinked in India	1st Channel -- Rs. 5 crs & for each additional channel Rs. 2.5 crs. irrespective of language of the channel	1st Channel -- Rs. 5 crs & for each additional channel Rs. 2.5 crs. irrespective of language of the channel

Processing fee for application

- 4.4 **Is there any need to increase the amount of non-refundable processing fee to be deposited by the applicant company along with each application for seeking permission under uplinking guidelines, and downlinking guidelines?, What should be the amount of non-refundable processing fee? Please elaborate with justification.**

TN Comments:

No, the present processing fee is sufficient. The transaction cost can be reduced with the online processing of applications.

However, there should be clear cut defined timelines for issuance of permission with all agencies working accordingly for 1st application of the new broadcaster company and the applications filed thereafter by the broadcaster company already having UL/ DL permission for some other channel(s). Presently, with no timelines in place, the permission time is anything between 3 months and 3 years. This is a great issue with those wishing to launch new channels as their entire business plan goes awry in case of unexpected delays in launch of permissions.

Grant of license/ permission for Satellite TV Channels

- 4.5 **Whether auction of satellite TV channels as a complete package similar to FM Radio channels is feasible? If yes, then kindly suggest the approach.**

TN Comments:

TV broadcasting uses vertical spectrum and does not use the horizontal spectrum which is scarce and valuable. Comparing the same with FM Radio spectrum is not logical as the two are not comparable as the TV broadcasting uses the satellite transponder on the geo-stationary satellites by hiring the capacity and makes huge amount of payment to the satellite company owning the satellite. The Company has to further make agreements for distribution of the channel by paying huge costs. Whereas the FM Radio broadcasting uses the horizontal spectrum or the airwaves which is limited and does not need any hiring of satellite space, nor the distribution costs.

The auction model may be suitable for the **Digital Terrestrial TV transmission (DTT)** when it is introduced, as in DTT the horizontal spectrum will be used for TV broadcasting which will be characterized by limited spectrum and generally there will be more than one player interested in operating in a particular area/band and thus is likely to make a competitive bid for same.

- 4.6 **Is it technically feasible to auction individual legs of satellite TV broadcasting i.e. uplinking space spectrum, satellite transponder capacity, and downlinking space spectrum? Kindly explain in detail.**

TN Comments:

No, it is not feasible for the clarification mentioned above.

- 4.7 **Is it feasible to auction satellite TV channels without restricting the use of foreign satellites, and uplinking of**

signals of TV channels from foreign soil? Kindly suggest detailed methodology.

TN Comments:

It is not feasible as the Satellite TV broadcasting does not use horizontal spectrum and the vertical spectrum is closely associated with the use of the transponder satellite.

4.8 Is it advisable to restrict use of foreign satellites for satellite TV broadcasting or uplinking of satellite TV channels, to be downlinked in India, from foreign soil?

TN Comments:

No, it is a regressive step as it goes against the spirit of business. A broadcasting company should be free to use the satellite as per the technical feasibility and required footprints and the cost competitiveness. Rather Indian satellite companies should be cost effective and lucrative with an expansive satellite footprint and excellent quality to bring it at par with foreign satellites.

4.9 Can there be better way to grant license for TV satellite channel then what is presently followed? Give your comments with justification?

TN Comments:

Within the present system, strict timelines should be followed by the approving authorities while giving approvals and clearances and there has to be transparency in the entire process.

Further there should be complete automation & online processes which are integrated with all Ministries/Departments.

The present policy framework involves multiple clearances at different

levels within the same Ministry as well as between several Ministries within the Government. Be it security clearances or technical clearances, applicants today have to approach several authorities before permission or approval is granted with respect to their TV channels. As pointed out by the Authority, the internal processes that involve interaction within and between ministry departments are at present done manually. This makes the entire process cumbersome and extremely time consuming.

With the changing face of technology and advancement in doing business, it is imperative that critical processes and clearances such as the MHA, WPC and NOCC permissions be automated and aligned through an online mechanism which will not only save considerable time but will also go a long way in improving efficiencies in reviewing applications and granting the necessary approvals/clearances.

We appreciate the Ministry's effort in launching the 'Broadcast Seva' portal to facilitate online payments and tracking of applications. The same should be extended to facilitate online processing and approval of permissions across various departments and Ministries. At present the portal is wrought with teething issues, which need to be urgently addressed and resolved and made to function in a more user friendly manner.

- ✓ Promoting online processes for clearances and approvals will go a long way in easing the burden of the current mechanism and will save a lot of time, money and help in removal of uncertainties in the whole process, thereby benefiting the broadcasters and their business interests.
- ✓ In order to promote growth in this sector, it is important to ease the hardships faced by the stakeholders at multiple levels.
- ✓ An online mechanism will not only address this issue but will also facilitate efficient systems of database management for the

Ministries. Today, stakeholders submit voluminous information and data pertaining to their business and management while seeking approvals and clearances from the authorities.

- ✓ An online mechanism will help make available such key information at the disposal of the concerned authorities and will ease the burden of repeated and lengthy information submission by stakeholders.
- ✓ Online payment facility can be integrated into the overall system so that there is no delay in making payments and as such approvals are not put on hold for such delays.

Entry Fee and License fee

4.10 If it is decided to continue granting of licenses for satellite TV channels on administrative basis, as is the case presently, what should be the entry fee for grant of license for uplinking of TV channels from India, downlinking of TV channels uplinked from India, and downlinking of foreign TV channels? Please suggest the fee amount for each case separately with appropriate justification.

TN Comments:

There should not be any entry fees because the applicants are paying processing charges at the beginning and on approval of permission, they pay the annual license fees. In view of this, the need of again charging one time entry fees to the applicants is unwanted. Hence, the present system of annual fees is enough.

In case of a foreign channel being downlinked into India, an entry fee of Rs. 10 lacs is already stipulated, which is basically aimed at promoting uplink from Indian Soil. This can be retained but should not be increased, as it may deter the increase of international channels being made available to Indian consumers.

- 4.11 **What should be the license fees structure, i.e. fixed, variable, or semi-variable, for uplinking and downlinking of satellite TV channels? Please elaborate if any other license fee structure is proposed, with appropriate justification.**

TN Comments:

The license fee structure should be fixed. The number of TV channel licenses have been hovering between 800 and 900 for the last 5 years. In spite of the Government's efforts to bring it to the level of 1500, they have not increased in the last 5 years. The number of new licenses are balanced by the cancellations done by MIB due to non-operationalization and other issues. The broadcasting market is already nearing saturation. Hence, any efforts to put high tariff and non-tariff barriers would be counterproductive to the growth of this industry which has shown a remarkable growth in last one & half decades due to favorable policy.

- 4.12 **If the variable license fee structure is proposed, then what should be rate of license fee for TV channels uplinked from India and TV channels uplinked from abroad, and what should be the definition of AGR?**

TN Comments:

It is not suggested because there are more than 50% channels which are not doing well but just surviving because their other 1 or 2 lead channels are profit making.

- 4.13 **If the semi-variable license fee structure is proposed, then what should be the minimum amount of license fee per annum for domestic channels (uplinked and downlinked in India), uplink only channels, and downlinking of foreign**

channels (uplinked from abroad)?

TN Comments:

It is not advisable.

- 4.14 **If the fixed license fee structure is proposed, then what should be the license fee per annum for domestic channels, uplink only channels, and downlinking of foreign channels?**

TN Comments:

The fixed license fee structure should be continued. The fixed license fee stipulated presently is adequate and in view of present number of TV channels at around 900 there is a considerable amount of revenue being contributed to the exchequer by broadcasting sector towards licensing fees. The revenue will further increase with the increase of number of TV channels.

- 4.15 **What should be the periodicity for payment of the license fee to the Government? Please support your answer with justification.**

TN Comments:

The periodicity for payment of licensee fee to the Government is Annual, at present and same should continue. Any period below one year would not be appropriate both for the licensor and licensees in view of increased compliance. Further, it is suggested that the fees shall be collected in Financial Year cycle. The first permission could take this factor into account by charging pro-rata on monthly basis for the first year permission to align with financial year. The existing permission payments can also be aligned. It will be easier for both the licensee and licensor to make the payments and track the payments respectively.

4.16 What should be the periodicity for review of the entry fee and license fee rates?

TN Comments:

As recommended earlier, there should not be any entry fee (except for downlink of a foreign TV channel). A minimum of ten years' period should be set for review the current rates of license fee.

Encryption of TV channels

4.17 Should all TV channels, i.e. pay as well as FTA satellite TV channels, be broadcasted through satellite in encrypted mode? Please elaborate your responses with justification.

TN Comments:

Encryption should be the prerogative of and at the discretion of the Broadcaster. The signals may reach the DPO encrypted or unencrypted, however, the DPO shall encrypt the signals before providing to the Subscriber. This will be in line with the complete digital domain and addressability envisaged for the TV broadcasting in India and will also aid in organized growth of the industry by preventing any possible misuse of signals.

Operationalisation of TV channel

4.18 Is there a need to define the term "operationalisation of TV channel" in the uplinking guidelines, and downlinking guidelines? If yes, please suggest a suitable definition of "operationalisation of TV channel" for the purpose of the uplinking guidelines, and the downlinking guidelines separately.

TN Comments:

We find no reason to define this. The current practice suffices.

- 4.19 **Maximum how many days period may be permitted for interruption in transmission or distribution of a TV channel due to any reason, other than the force-majeure conditions, after which, such interruption may invite penal action? What could be suggested penal actions to ensure continuity of services after obtaining license for satellite TV channel?**

TN Comments:

In the event of interruption due to an event of force majeure or a business exigency no penal action should be initiated against the broadcaster.

Transfer of License

- 4.20 **Whether the existing provisions for transfer of license/ permission for a TV channel under uplinking guidelines, and downlinking guidelines are adequate? If no, please suggest additional terms and conditions under which transfer of license/permission for a TV channel under uplinking guidelines, and downlinking guidelines may also be permitted? Please elaborate your responses with justification.**

TN Comments:

If the license owner owns more than 50% stake in the beneficiary company, then the transfer should be allowed. However, if the holding is less, then it is considered as trading/transfer/renting and should be disallowed.

- 4.21 **Should there be a lock in period for transfer of license/**

permission for uplinking, or downlinking of a TV channel? If yes, please suggest a suitable time period for lock in period. Please elaborate your responses with justification.

TN Comments:

No, since the TV channels are not freely transferable and can be transferred in certain cases only arising due to genuine business concerns, there is no further requirement to stipulate lock in period.

4.22 Should the lock in period be applicable for first transfer after the grant of license/ permission or should it be applicable for subsequent transfers of license/ permission also?

TN Comments:

As stated earlier, no lock in period is suggested.

4.23 What additional checks should be introduced in the uplinking, and downlinking permission/ license conditions to ensure that licensees are not able to sub-lease or trade the license? Please suggest the list of activities which are required to be performed by Licensee Company of a satellite TV channel and can't be outsourced to any other entity to prevent hawking, trading or subleasing of licenses.

TN Comments:

Sub-lease and trading of license should not be allowed by the Ministry. Every year the broadcasting company should give an undertaking that the channel licenses are not sub-licensed to any third party for exploitation and the broadcasting company presently owns and operates x number of channels in total.

Meaning of a teleport

- 4.24 **Whether specific definition of a teleport is required to be incorporated in the policy guidelines? If yes, then what should be the appropriate definition? Please elaborate responses with justification.**

TN Comments:

A teleport could be defined as a Earth Station having technical facility capable of uplinking a number of TV channels to the satellite/s. It could have number of locations, number of dish antennas and could uplink to various satellites.

Entry fee, Processing fee, and License fee for teleport license

- 4.25 **Is there any need to increase the amount of non-refundable processing fee to be paid by the applicant company along with each application for teleport license? If yes, what should be the amount of non-refundable processing fee? Please elaborate with justification.**

TN Comments:

There is no need to increase the amount of non-refundable processing fee of Rs. 10000- per location, per dish antenna / per satellite which is charged presently.

- 4.26 **Should entry fee be levied for grant of license to set up teleport? If yes, what should be the entry fee amount? Please give appropriate justification for your response.**

TN Comments:

No. The teleport is set up on incurring of huge capital cost and the teleport is obliged to make huge recurring costs and payments

towards satellite bandwidth, License fee and Royalty Charges for the Spectrum to the WPC and Monitoring Charges to NOCC. Any levy of further fee in form of Entry fee will add to the cost of setting up a teleport and may dissuade new entrants. It will also increase the cost of operations which will be passed on ultimately to the viewers.

4.27 What should be the license fee structure for teleport licensees? Should it be fixed, variable or semi-variable? Please elaborate if any other license fee methodology is proposed, with appropriate justification.

TN Comments:

The present fixed license fee structure is good enough. The present policy has favoured setting up of teleports in India vis a vis the other competing markets like HongKong, Singapore, Thailand, Dubai etc. and it should not be disturbed, otherwise it may risk losing the gains already made apart from affecting future prospects.

4.28 What should be the rate of such license fee? Please give appropriate justification for your response.

TN Comments:

The present license fee of Rs. 2 lacs per annum per teleport is adequate.

4.29 What should be the periodicity for payment of the license fee to the Government? Please support your answer with justification.

TN Comments:

The periodicity of payment should be annual and should be aligned with Financial Year.

4.30 What should be the periodicity for revision of the entry fee, and license fees rate for teleport licensees?

TN Comments:

The review may be done after a period of 10 years as there should be policy certainty and frequent change or modification of the policies may adversely affect business sentiments.

Restriction on the number of teleports

4.31 Whether there is a need to restrict the number of teleports in India? If yes, then how the optimum number of teleports can be decided? Please elaborate your responses with justification.

TN Comments:

No, there is no need to restrict the number of teleports. Any such attempt will be regressive and hurt business sentiments. It is also not logical. For example – A TV broadcaster operating from certain remote part of India may have its own teleport for uplinking of its channel. The teleport facility may not necessarily be available there. If it cannot have its teleport, he will be dependent on the teleport available at other location and will have to carry his signals to the other place by requiring other connectivity incurring additional cost.

Further putting a cap on teleports will result in market distortions and will offer huge advantage specially to the established teleport operators who may charge exorbitantly from broadcasters in view of the changed scenario. This may also result in garnering of a major chunk of available satellite bandwidth by large teleport operators in view of their dominant position thereby disturbing the entire gamut

which will result in enhanced cost of operations for the broadcasting company and will create market distortions.

The broadcasting company may also have issues related to operating their channels at lower bandwidth than what is contracted if the teleport operator chooses to do so adopting unfair practice. There is very little control the broadcaster will have in such a scenario. In other words, the unscrupulous teleport operator may get unjust enrichment at the cost of broadcaster. It is similar to the internet user getting a variable speed inspite of the ISP's commitment of a particular speed.

4.32 Whether any restriction on the number of teleports will adversely affect the availability or rates of uplinking facilities for TV channels in India?

TN Comments:

Yes, as stated earlier, it will result in market distortion and due to high dependence on technology in setting up and operating teleport and the muscle to hire certain bandwidth slots, the few established teleport operators will be able to control the market and charge arbitrary rates on their teleport services. This will ultimately result in higher cost of operations for the broadcasters and ultimately the cost for viewer would go up. The vertical integration of the business by the broadcaster will also be compromised.

Location of teleports

4.33 What should be the criteria, if any, for selecting location of teleports? Should some specific areas be identified for Teleport Parks? Please elaborate your responses with justification.

TN Comments:

The decision regarding selecting the location of the teleport should be left to the market forces. The market is well established now and the teleport operators have established their facilities at locations wherein the maximum broadcasting companies are located/ are easily connected. Further a broadcasting company having its own teleport has set up its teleport at a location as per the broadcasting set up location. There is no need to specify any particular location for teleport as it will only result in distortion of the activities coupled by enhanced costs. Also the idea of setting up a teleport park may be counterproductive in case of natural calamities or disasters.

Optimum use of existing teleport infrastructure**4.34 Please suggest the ways for the optimal use of existing infrastructure relating to teleports.****TN Comments:**

Efforts should be made to cancel the licenses of non-operational teleports. This will result in optimal use of the existing infrastructure relating to teleports. No other measure is required to be taken as the market forces takes care of the optimal use.

Further MPEG-4 with DVB-S2 (minimum) should be prescribed for all fresh permissions and a roadmap for migration of existing MPEG-2 transmissions should be put in place. However sufficient time should be given to the existing players so that it does not cause abrupt in the market and result in wasting of national resources as MPEG-4 migration involves seeding of STBs with the DPOs/LCOs and should be done in a planned and phased manner, otherwise the losses would outweigh the gains to be made in the process.

Unauthorised Uplink by Teleport operator

- 4.35 **What specific technological and regulatory measures should be adopted to detect, and stop uplink of signals of non-permitted TV channels by any teleport licensee? Please elaborate your responses with details of solution suggested.**

TN Comments:

The issue is not vogue at the teleport level as no teleport would put its license to risk and invite penal action for telecasting any signal which is not permitted. The issue is more at the cable operator level and particularly in remote areas / certain parts of the country where the unregistered channels are being carried by the local operators. Measures should be taken at local level to deal with such issues.

However a detailed Undertaking on monthly basis along with the Teleport MIS may be taken from teleport operator giving a self-declaration that no unauthorized content or channel has been uplinked from their teleport. Along with monthly undertaking, a yearly decalaration shall be taken from the Teleport Operator Company on the usage of teleport in compliance of all laws, guidelines application by declaring no. of channel endorsed on his teleport license as on date.

Further there can be enhanced monitoring with technological aid to detect and stop such usage if done at teleport level. The penal provisions presently provided are adequate safeguards.

Any other issue

- 4.36 **Stakeholders may also provide their comments on any other issue relevant to the present consultation.**

TN Comments:

1. In view of the convergence of technology and availability of high speed internet bandwidth, more eyeballs are being shifted to the handheld devices from conventional TV watching. The trend is likely to be further enhanced due to social media, 4G and upcoming 5G speed for internet in India. Hence the conventional TV watching is going to be affected.

It seems that the TV broadcasting market in India is nearing saturation level. The Government's efforts to bring the TV channels to 1500 level has not yet been fructified. There are distribution constraints and the growth of TV channels has not been corresponded by similar increase in the distribution capability. Hence today effectively there are only few distribution platforms which have capacity to offer 500 channels. The distribution costs have also become very significant factor in the overall cost of operating TV channels.

Hence it is in the best interest of the industry and consumers that no major changes are made which may hinder the growth of the industry.

The broadcasting activity is already covered under GST and is fairly contributing to the Government Exchequer. There should not be revenue aim from broadcasting licensing, but only the licensing fees being presently levied should be continued with primary purpose for orderly growth of the sector.

2. Steps should be taken to introduce Digital Terrestrial TV to have opportunities for more local content and dissemination of information. This can be another source of revenue for the exchequer.

3. The MIB policy guidelines should have provisions for dealing

with disaster management / force majeure conditions by making provisions for DR sites.

4. The Offences and Penalties as provided in the Uplinking and Downlinking Guidelines which stipulates suspension of broadcast, is very harsh in nature. It should be reviewed and may be replaced with Monetary Fine/Penalty as is envisaged in other countries.

5. As in case of news channel, a non-news channel should also be allowed to have the flexibility of live programming. There should be no need to take temporary live permission every time. In today's world, where there is fast flow of information, there should not be artificial restrictions placed on non-news category of channels to carry live programming.

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