

**YOU HITS CONDITIONAL ACCESS SERVICES PRIVATE LTD**

**Registered Office:** Building no.1 C, Nirlon Complex,  
Off Western Express Highway, Goregaon (East),  
Mumbai 400 063 Phone no: 022-40190000 fax no: 022-26850 998

August 9, 2007

To,  
Telecom Regulatory Authorities of India,  
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**Kind Attn: Mr.Nirpendra Mishra (Chairman).**

Respected Sir,

**Sub: Consultation paper on HEADEND-IN-THE-SKY (HITS)**

This is with respect to the consultation paper on HITS (Head End In The Sky) that was released on 24<sup>th</sup> July, 07. We thank the the ministry for its efforts for the rapid digitalization of Indian cable T.V Industry. We as one of the interested player in digital cable space would like to present our views on subject consultation as detailed below: -

- *What should be the scope of the HITS operations? Whether the scope of the HITS operator should include both the models as stated under heading "scope of HITS operation" in paras 4.5 and 4.6?*

**Our Views:**

The scope of a HITS operation should be left open. Both models suggested in Paras 4.5 and 4.6 exist internationally. There are HITS operators who deal directly with broadcasters and those that offer their service as infrastructure providers to head ends and MSO's. The choice of business model should be left to the operator concerned.

However, it is envisaged that the model that brings greater benefit to all players is one where the HITS service provider deals directly with broadcasters.

Some of the advantages of that are as detailed below

- Broadcasters get a single point of interaction for collection of dues and for audit of their subscriber base. This will result in smoother functioning of the industry and easier manageability of contracts leading to lesser disputes.





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Further, Scale economies in content acquisition, particularly in the case of new and interactive services like Pay per View would come in the model where the HITS operator deals directly with content providers. Lower cost of acquisition of content, will eventually benefit consumers through lower prices.

- *Whether HITS operations should be allowed in C-Band or in Ku band or in both?*

### **Our Views:**

The HITS operators should only be permitted to offer services in the C Band.

Ku band capacity is scarce and allowing additional services on it will result in increase in demand and hence prices of the Ku band transponders. It is believed that many potential services providers have had their plans delayed on account of scarcity of Ku band capacity. In case HITS also needs to be launched on Ku band, the lack of suitable capacity will lead to inordinate delays. This will defeat the purpose of early and quick digitalization. This will also raise the cost of services for both DTH and cable through HITS, since addition demand for transponders will raise their costs further..

Further, Ku band transmission, permits reception by very small dishes. While reception in the C band requires larger size dish antennas for effective reception. Hence Ku band transmission is suitable for services to end customers like DTH, Data Transmission to end customers etc, where the area/sky-window available for putting up a dish is expected to be lesser. In comparison, services to cable operators, like HITS, should be on C band only, since it is easily possible for the cable operator to put up C band dishes to service his customers. (cable operators already put dishes for reception of current channels) This will also give better rain tolerance to the consumers thus assuring them of better services.

Hence we suggest that a HITS platform should be required to use the C Band transponders only.

- *Whether a HITS operator should be restricted to offer services only to the cable operator? Alternatively, should HITS operator be allowed to serve the end customer also directly? If yes, then whether the restriction on DTH to service end customer only needs any review?*

### **Our Views:**

A HITS operator should not be permitted to give services directly to consumers. A HITS service provider would have the data giving details of the operators' customers. (Since the SMS is maintained by the HITS operator himself) If the HITS operator is also permitted to offer services directly to the end customers, then, the HITS service provider will have the potential to indulge in unfair





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competition with the operator concerned. This may lead to unfair competition and an atmosphere of mistrust. This would eventually lead to poor development of the industry.

Hence, in line with the above, a HITS operators should be required to offer their services only through the cable network of the cable operators.

In order for having a level playing field between service providers', restrictions on DTH, which do not permit them to offer their services through cable operators should remain in force.

- *What should be the limit of Foreign Direct Investment (FDI) for HITS licenses? Should there be any restriction on the maximum limit on the composite figure of FDI and FII?*

### **Our views:**

A HITS Service operator offers his services through licensed cable operators. Licensed cable operators are the service providers to the end customers. They comply with the cable TV Act including shareholding restrictions on the same.

A HITS operator is similar to distribution companies of broadcasters. A HITS operators, contracts for content and also contracts for its distribution is is akin to being a part of the distribution chain. Hence the shareholding restrictions on HITS should be similar to those on distribution companies of Broadcasting entities.

HITS is a one of the steps that will help organize and upgrade the industry. A HITS Operation requires high capital expenditure for setting up a quality and scaleable infrastructure and also capital to sustain operations in the initial period.

As correctly mentioned in the discussion note, a 49% cap on HITS may deter some players from investing here. A higher cap will bring in capital without any dilution in control for the government. Since the HITS operation would being run by licensed Indian entity, will always be subject to control and scrutiny by the Government.

To summarize

1. Since, HITS is capital intensive it will need large inflows to sustain and grow into a meaningful size.
2. Since a HITS operation would be a organized hence, it may be possible for foreign investment to com into cable through route thus developing the industry.





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3. Since HITS will be done by a entity based in India there will be no loss of control to the government on that count.

Hence we humbly recommend that the foreign equity permitted for a HITS operation should be no less then 74%.

- *What should be the entry fee and the annual license fee for HITS?*

**Our Views:**

The license fee on HITS players should be NIL or very nominal or token fee (as in the case of ISP licenses). This will help to develop the industry. HITS platforms have high operating costs - transponder costs and also have a revenue share with operators. If, in addition, entry fee and a license fees is also imposed, then the service would become uncompetitive, and would not help the Government achieve the objective of rapid and widespread digitization.

Further, a HITS operation is similar in concept to a digital head end by any large MSO. It will also serve cable operators operators and help then offer a digital service to their customers on a revenue share basis. A MSO only pays a nominal license fee for their head end - whether digital or analog. Hence in order to have a level playing field with on ground MSO, the license fee for HIST should also be kept nominal.

- *Whether HITS operator should be allowed to uplink from outside India also?*

**Our views:-**

A HITS operation should be indifferent to its location of uplink. The Government regulates content available on cable networks through its downlink policy. Even today, channels that are uplinked abroad are regulated/controlled through grant of downlink permissions, which is applied by their distribution entities based in India.

The same applies to a HITS service. Since the HITS entity, would be an Indian entity with offices and personnel in India. The company's SMS could lie in India and be subject to inspection at all times. The Government can thus ensure that the HITS service restricts itself to channels that the Government has permitted for a download into cable networks.

Insisting on uplink from India would not help achieve any additional security or control.

Hence we recomemd that a HITS operation be permitted to uplink from abroad also.



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- If yes, what are the safeguards needed for monitoring the system? What are the checks and balances required to be put in place to address the level playing field issue with the operators uplinking from India?

**Our views:-**

The Guidelines for HITS operation should ensure that the entities unlinking from India is not at a regulatory disadvantage in comparison to those uplinking from abroad.

On examination of the uplink conditions and obligations, the following should be a requirement for a HITS license in order to bring regulatory parity.

- To uplink only those TV channels which are specifically approved or permitted by the Ministry of I&B for downlink into India.
  - To stop uplinking of TV channels whenever permission/approval to such a channel is withdrawn by the Ministry of I&B.
  - Can uplink both to Indian as well as foreign satellites.
  - To keep record of materials uplinked for a period of 90 days and to produce the same before any agency of the Government as and when required.
  - To permit the Government agencies to inspect the facilities as and when required.
  - To furnish such information as may be required by the Ministry of I&B from time to time.
  - To provide the necessary monitoring facility at its own cost for monitoring of programme or content by the representative of the Ministry of I&B or any other Government agency as and when required
  - To comply with the terms and conditions of the licensing Agreement to be signed between the Applicant and the Ministry of I&B.
  - To uplink in C-Band only.
  - The satellite to which uplinking is proposed should have been co-ordinated with Insat system,
  - Failure to comply with the terms and conditions of above licenses would result in termination/cancellation of the licenses.
- *Should any interconnection issues be addressed in licensing conditions?*



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**Our views:-** Interconnect in a HITS platform would be both between Broadcasters and the HITS provider and also between a HITS platform and a cable operator.

The government should require all entities to file their model agreements for HITS with TRAI. These should be made available to interested parties.

- *Should spectrum charges be recommended to be done away with for HITS service provider?*

**Our views:-**

Yes. The spectrum fee should not be imposed. A lowering of cost will help promote rapid digitalization. The country will benefit from the same by way of better service to consumers and also higher transparency leading to better compliance of tax obligations. Further, we suggest to grant some tax incentive for faster digitalization and corporatization of cable industry in the hands of more serious players.

We therefore recommend that spectrum charges not be imposed on a HITS service provider.

- *Should there be any cross holding restriction? If yes, please suggest the nature and quantum of restrictions.*

**Our views:-**

HITS is a form of distribution that is similar in lines to that of a MSO and only facilitates cable delivery. The cross holding on the platform should be the same as for a MSO. Since there are no restrictions currently in force on cable, the same should apply to HITS.

- *Should HITS operator be allowed to offer value added services?*

**Our views:**

Yes. HITS facilitates delivery of Digital services by cable operators particularly those that are small in size. Putting restrictions on Value added Services by HITS operators, will hold up the spread of value added services through cable. This will also put smaller cable who are on a HITS platform at a disadvantage compared to larger ones who have laid their own digital head ends. If MSO with digital head end on ground are permitted to offer VAS while, This will into unfair advantage in favor of those operators that are tied up MSO with a head end on the ground which is against the principal of building a level playing field for all entities.



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Further, offering Value Added Services (VAS) through HITS, will generate new revenue streams through sale of services on the same infrastructure. This will help bring down costs of the basic service as the ROI on the investment (eg. in STB, conditional access and billing systems etc) can be recovered from more revenue streams. This will lead to lower prices for customers. Putting any restriction on VAS by HITS players, will restrict competition in the VAS which may not be good for the customer.

- *Whether "must carry/must provide" conditions be imposed on HITS operation?*

### **Our views:-**

HITS is a platform that facilitates delivery of signals to customers through cable operators. Hence a HITS service must have access to all channels in order for customers to be able to view the same. Hence there must be a clause for a non discriminatory "must provide" for channels on a HITS platform.

As regards, must carry, all channels may not generate economic return for on a platform. When a channel is carried on a platform, the platform provider will have additional costs on towards uplink and other associated costs. There are channels that do not have sufficient customer demand for generating enough subscription revenues.

In case, a HITS platform has a must carry associated with it, then it will be forced to carry channels that generate losses for it. These will need be recovered from the more popular channels that get subscribed. So it would lead to a situation where the more popular content will need to be priced higher to make up for the losses on the less popular content. This will raise the cost of overall service to the consumers.

Also a requirement for carrying all the content on HITS will also result in higher demand for transponder capacity. This will also lead to higher costs for the transponders and in turn for the service.

Therefore we recommend that there must be must provide obligation for a HITS service, but not a must carry. This will also help create a level playing field between DTH, HITS and a Digital Head end on the ground.

- *Whether a stipulated net worth of specified amount be made as an eligibility criteria to avoid any non-serious applicant?*

### **Our views:**

Before a HITS Player starts his service, he would need to contract with satellites and also setup a digital head end. Hence before any persons with a

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minimum net worth will not able to start the service even if they obtain a license.

Since the start up investments are high, a net worth stipulation can be done away with since any non serious applicant will not be able to start service.

We hope you will consider our representations. We will be glad to meet with you and provide you a detailed presentation on the subject if permitted.

Thanking you,

Yours Faithfully,

For **YOU HITS CONDITIONAL ACCESS SERVICE PVT LTD**



**EVS CHAKRAVARTHY**

**DIRECTOR**