

RESPONSE OF ZEE ENTERTAINMENT ENTERPRISES LIMITED

TO THE CONSULTATION PAPER

ON

ENTRY LEVEL NET WORTH REQUIREMENT OF MULTI- SYSTEM

OPERATORS IN CABLE TV SERVICES

ISSUED BY

THE TELECOM REGULATORY AUTHORITY OF INDIA (“TRAI”)

ON 09TH APRIL 2019



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Response by Zee Entertainment Enterprises Limited (“ZEEL”) to the Consultation Paper on Entry Level Net worth requirement of Multi-system Operators in Cable TV services issued by the Telecom Regulatory Authority of India (“TRAI”) on 09th April 2019

Introduction: There has been a paradoxical shift in the Business model of distribution of channels undertaken by Multi System operators over the last (7) seven years, more particularly during the year 2012 to 2019 whereby migration from analogue Cable TV distribution system to digital was completed. It is pertinent to point out that from just 4,10,000 Cable TV subscriber household in early 1992, the number of Cable TV homes has soared to 98.5 million (As per FICCI – EY Report 2018). Total number of households in India is 286 million out of which 183 million are TV households.

During this phase the number of Multi System Operators (MSO’s) rose rapidly to a figure of 1471 operational MSOs. Although the shift to addressable system would indicate that complete transparency has been established, the reality on ground is far from this fact. There are quite a few number of MSO’s who still do not have addressable systems in place and continue to report Subscriber numbers which are far below the actual number of subscribers serviced by these MSOs and thereby disrupting the eco system. Probably, these MSOs are unable to manage their finances in the best optimum manner or are falling short of fund requirements for installing digital head-ends with compliant Subscriber Management Systems (SMS) and Conditional Access Systems (CAS) leading them to resort to such non-transparent business practices. Although the number of such MSO’s may be small but definitely it results in loss to the Government exchequer and Broadcasters at large. For matter of record the Ministry of Information and Broadcasting has reported a figure of 22.3% (328 MSOs) in 2018 that were non-operational out of 1143 registered MSOs.

The operational 1143 MSOs and any new entrant MSO should be governed by revised norms for entry level net worth criteria which needs to be fixed by the Authority. The present criterion prescribed by Ministry of Information and Broadcasting (MIB) in terms of net worth states that he/she should have a positive net worth. In case of association of individuals or body of individuals or a company, there is no criterion in terms of net worth requirement. The MIB prescribing an entry fee of Rupees One Lakh (Rs. 1,00,000/-) for MSO registration in DAS regime is also abysmally low. However, no amount was fixed for net worth.

The financial strength of an MSO is very much essential to ensure sustainability and continuity of business without any financial hardships. It is also essential to be financially stable to ensure that quality parameters are met and services to the customers is offered on a continuous basis in terms of the Regulations prescribed by the Authority in the new MRP regime.

Issue-wise response:

3.1 Do the present rules and provisions as regards eligibility and net worth for MSO require a review or modification? Give your answer with justification?

Response: In our view the present rules and provisions as regards eligibility and net worth for MSO surely require a review or modification in order to ensure the entity operating as an MSO has adequate financial strength while operating in a technology dependent, dynamic and capital -intensive industry. Cable TV distribution service is an important support in the overall value chain as it constitutes the last mile for extending service to consumers. A financially weak entity may either wind up or may have to compromise on quality of its services by not having compliant infrastructure in place as prescribed by the Authority. In either case the effects of such scenarios are not conducive for orderly growth of the business of distribution of channels in the cable industry sector. The Policy framework should therefore ensure that only those entities which can sustain competition and provide best quality of service to consumers should be allowed to be registered as MSO.

3.2 If yes, should there be provisions specifying eligibility only for registered proprietorship / partnership firms or it should continue to include individuals or group of individuals as at present? Please elaborate your comments with reasons and facts.

Response: The registration of Individuals and Group of Individuals to operate as MSOs should **not** be permitted. In case an Individual or group of Individuals wish to operate as an MSO they should either register themselves as Limited Liability Partnership (LLP) with a single person as promoter or alternatively a partnership firm with multiple persons joining the Partnership firm as partners which is registered with the registering authority. In addition, a group of persons can also form a Private Limited company or a Public Limited company which in turn can register itself to operate as an MSO. This criterion will ensure that Net worth of these individuals operating thru an LLP, Partnership firm, Pvt Ltd company or Public Limited company registered to operate as an MSO could be easily monitored right from registration as well as over the years of its operations as an MSO in the business of distribution of TV channels to end consumers. This criterion will ensure that fly by night operators (MSOs) are eliminated and also make sure that there is no disruption of services by such non-scrupulous entities. It will also help in eliminating such undesirable entities who are not paying their taxes resulting in loss to the exchequer as well as the Broadcasters. Moreover, it will also do away with fly by night MSOs who disappear by closing their business and starting afresh as an MSO in a different name without any restrictions whatsoever. Hence, there must be an amendment to section 11B of the cable TV rules whereby a differentiation between a “person” and a “legal person” should be defined and only a “legal person” should be an eligible applicant for MSO registration must be categorically spelt out.

3.3 Is there a need for prescribing an entry level minimum net worth for the MSOs? Please justify your comments.

Response: Yes, in our view there should be an entry level minimum net worth prescribed for the MSOs. The rationale being that the said MSOs have to keep pace with the rapid advancement in technologies which requires investments in Set Top Boxes (STBs), Conditional Access System (CAS), Subscriber Management System (SMS), setting up of Headend with channel capacity of 300 to 500 channels and working capital requirement to run the business by having adequate staff to man relevant functions of the MSO. In absence of entry level minimum net worth for an MSO, there could be no restrictions whatsoever for any individual to register as an MSO without it being a legal person under the law. Moreover, in absence of net worth criterion, the MSO is not bound by law to show his financial strength and viability to run the business of distribution of channels which also involves payment to various Broadcasters towards acquisition of content for its end consumers in addition to the above expenses. In the event no criterion is fixed for entry level minimum worth, it may happen that fly by night MSOs will mushroom across the country resulting in loss to the exchequer as well as to all the stakeholders.

3.4 If yes, what should be the procedure to check and verify the net-worth in case of individual or group of individuals? Similarly, what should be the mechanism to verify the net-worth as claimed by business entities like proprietor-ship firm, partnership firm, LLP or Company as the case may be?

Response: The procedure to check and verify the net worth in case of LLP, Partnership firms, Pvt Ltd company and Public Limited companies, should be the audited Balance sheets and Profit and Loss account of the last financial year supported by a certificate to be issued by the Auditors of the entity certifying the calculation of the net worth as prescribed under the Companies Act, 2013. In case if the applicant is making an application during the course of the financial year then in that case a separate certificate needs to be issued by the auditors of the entity certifying the net worth as on that particular date of making the application for registering itself as an MSO. As suggested herein above no individual would be eligible to apply in its individual capacity.

3.5 Should the net worth requirements for entrant MSO be based on its proposed area of operation? Give your comments with justification.

Response: In our view there cannot be any differentiation of criterion for net worth requirement for entrants MSO based on its proposed area of operation. The Ministry of Information and Broadcasting has recognized in the cable TV sector that MSOs providing cable TV services are categorized on a pan India basis only. As per guidelines issued by MIB vide notification No. 2/108/2015-DAS dated 27/01/2017 whereby all registered MSOs are free to operate in any parts of the country, irrespective of the registration specified DAS notified area(s) granted by the MIB. Therefore, there has to be uniform criterion for fixing net worth requirements for entrant MSO. It is also important to point out that most of the MSOs are not restricting their operations to only regional channels but in fact catering to varied choices of a large cosmopolitan base of subscribers in the cities and towns spreads across the length and breadth of this country.

3.6 If yes, what could be different classification of entrant MSOs based on area of operation? Give your comments with justification.

Response: In view of our response to question no: 3.5 there is no need for different classification of entrant MSO based on area of operation.

3.7 What should be the entry level net worth for each of the categories of MSOs if any classification is made on the basis of area of operation? Give your comments with justification.

Response: In view of our response to question no: 3.5 there is no need for any entry level net worth for each of the categories of MSO as we do not propose classification to be made on the basis of area of operation.

3.8 In case, license area of MSO's is classified on the basis of area of operation, what should be the mechanism and criteria to classify existing MSOs? Please comment with proposed process to re-classify.

Response: There is no need for a separate response as our view(s) on question no: 3.5, 3.6 and 3.7 categorically states that we do not propose any different classification for entrant MSOs based on area of operation or entry level net worth for each category of MSO referred to in your questions.

3.9 Should the minimum net worth required in case of MSOs operating in North east and/or J&K be relaxed compared to other regions? Please provide suitable justification.

Response: In our view there should be uniform minimum net worth which should be applicable across the country. In fact, no special concessions or benefits be extended to North east and/or J&K as our experience suggests that MSO operation in these areas tend to find excuses in not making payments of subscription charges on time, although they collect the subscription amounts from their subscribers on time. Further, law and order situation is such that Broadcasters find it extremely difficult to initiate any action under the applicable laws because of insecure circumstances in these areas.

3.10 If yes, by how much should the entry level net worth criteria be relaxed? Please give your comments with justification.

Response: No separate response is required in view of our response to question no: 3.9 herein above.

3.11 What are the components of the fixed costs incurred by an entrant MSO? Give your comments with justification.

Response: In our view some of the components of Fixed costs incurred by an entrant MSO would include setting up a Headend, CAS and SMS installation, laying of cable, deployment of minimum number of Set top boxes (STBs) for a viable business say 25,000 subscribers. An efficient IT system with Financial module of ERP, Customer call center, Building/Rent other equipment's and Insurance and payment for acquisition of content to Broadcasters (assuming for a fixed number of subscribers) etc.

3.12 What are the components of the variable costs incurred by an entrant MSO?

Response: The components of variable cost incurred by an entrant MSO are operating expenditure as well as maintenance cost like electricity, Man power cost, Repairs and maintenance, payment for acquisition of content to Broadcasters. etc.

3.13 How do the fixed costs and the variable costs depend upon the scale of the operation that is for the small, medium and large operators?

Response: The fixed cost and variable cost may vary depending upon the scale of operation for small, medium and large operators. For example, if the MSO has installed channel capacity of 150 channels, 300 channels and 500 channels, the fixed cost may vary accordingly. The variable cost would also differ on the size of operations. But we assume that an MSO should have a capacity of 500 channels at any given time as today we have almost 906 channels registered with MIB.

3.14 Should the minimum net worth required be based upon the average fixed cost incurred by an entrant? If yes, what should be the appropriate criterion? Please explain.

Response: In our view the minimum net worth is required to be based on various components of investments in Fixed costs and variable costs which an MSO would be required to make keeping in mind the minimum excess capacity that would be required for expansion. Therefore, average fixed cost incurred should not be the criterion for fixing the minimum net worth.

3.15 Discuss if there could be some other criteria in context of costs incurred such as a combination of average fixed and variable costs.

Response: In our view there cannot be any other criteria in context of costs incurred such as combination of average fixed and variable cost to arrive at minimum net worth. The standalone heads of expenditure attributable to Fixed and variable costs have to be taken into account for a business of a particular size to be viable, keeping an allowance for future expansion to arrive at a minimum net worth amount.

3.16 What is the average cost incurred in establishing a minimum capacity of 100/200/300/500 channels? Should the minimum net worth depend upon the proposed channel carrying capacity of the entrant? Please justify.

Response: As per our response to question no: 3.13 and 3.11 we have indicated that the minimum channel carrying capacity should be **500** channels in arriving at the minimum net worth taking into account the fixed costs and variable costs for setting up the infrastructure for an MSO for servicing at least **25,000** subscribers for arriving at a minimum net worth amount. Meaning thereby that although an MSO may operate with 100, 200, 300 or 500 channels, the net worth criterion should on the bench mark figure of the cost involved in setting up Business facilities for 500 channels with a minimum subscriber base of 25,000 subscribers, even though the MSO to begin with may cater to only 5,000 or 10,000 subscribers. The suggested Bench mark while calculating minimum net worth will ensure that even if the MSO operates at a lower level, his financial capability would be to shoulder financial liability for running a business operation of 500 channels with a minimum subscriber base of 25,000 subscribers.

3.17 If the answer to question 3.16 is in affirmative, what should be the minimum net worth requirement for an entrant MSO willing to provide just the basic service tier of channels? Further, how should the minimum net worth requirement vary with increase in proposed capacity tier?

Response: Our response to question no: 3.16 is not in affirmative as we have indicated a criterion of 500 channel carrying capacity with related infrastructure cost for arriving at a minimum net worth. Therefore, the minimum net worth requirement for an entrant MSO is not applicable nor there is any comment required on the issue of minimum net worth requirement varying with increase in proposed capacity tier as we are proposing a minimum benchmark of 500 channels to be available in a business model for calculating the minimum net worth amount along with other additional criterion

3.18 Should the minimum net worth depend upon the proposed number of subscribers that an applicant MSO would cater to? Please justify.

Response: Yes, the minimum net worth should depend upon the proposed number of subscribers that an applicant MSO would cater. In our view a minimum number of subscribers of a substantial proportion should be considered along with the cost of Infrastructure required for setting up the business of distribution of channels while arriving at the minimum net worth.

3.19 If the answer to question 3.18 is in affirmative, what should be the proposed number of subscribers and the relevant net worth for the same?

Response: In our view the proposed number of subscribers should be 25,000 subscribers in arriving at the minimum net worth. The minimum net worth for any new entrant could be pegged at **Rs. 3.00 Crores**. This figure has been calculated taking into account a Capex amount of **Rs. 2.00 crores** (comprising of Headend, cost of STB's and cable/fibre) and Opex of **Rs. 1.00 crores** for first three months

(comprising of Content cost, CAS/SMS License fee for the year, Electricity, Manpower, Repairs). The calculation for capex and opex has been done considering that internal revenue accruals will be realized within three months of commencement of business to take care of the expenses for the balance period of the year

3.20 Discuss if any other criterion could be used to determine the entry level net worth of the MSOs?

Response: In our view no other criteria can be used to determine entry level net worth of the MSO. In our response to question no: 3.19 we have considered likely cost to be incurred for setting up a business of minimum size considering scope of future expansions as a pre-requisite requirement for arriving at the minimum net worth.

3.21 Should necessary modifications be made in Cable TV rules in case of individual applicants so as to ascertain his/her net worth more prudently compared to the existing regime?

Response: In our view necessary modifications should be made in Cable TV Rules in case of Individual applicants, whereby no individual may be permitted to apply for registering themselves as an MSO unless that individual has registered an LLP in which he is the sole promoter. As far as ascertaining his/her net worth is concerned the net worth calculation proforma recommended by the Authority as per **ANNEXURE – II** of the Consultation Paper for calculating the net worth could be adopted for an Individual who is a person of the registered LLP.

3.22 Should the individual be permitted to seek MSO registration? If he/she is permitted, what should be the method for calculating and verifying his/her net worth?

Response: An individual should not be permitted to seek MSO registration unless that individual is the sole member of an LLP. The methodology to calculate should be as prescribed under the Companies Act, 2013 or alternatively as the Authority has recommended in **ANNEXURE – II** of the Consultation Paper is also fine.

3.23 Which documents need to be furnished at the time of registration in order to justify the given net worth requirements for all other 3 cases, i.e., body of individual, partnership firms, companies?

Response: The following documents may be sought from the following entities.

(I) Single Member LLP: The net worth of an LLP could be calculated as prescribed under the Companies Act 2013 or alternatively as per ANNEXURE -II recommended by the Authority. A certificate to that effect could be submitted by the Auditors of the entity.

(II) Partnership Firm: The net worth of a Partnership firm may be sought by way of a certificate to be submitted by the Auditors of the Partnership firm on the basis of Audited Balance sheet/ Profit and Loss Account as per Books of Accounts maintained as required under section 44AA and 44AB of the Income Tax Act.

(III) Private Limited/ Public Limited Company: The net worth of a Private Limited/ Public Limited Company may be sought by way of a certificate to be submitted by the Auditors of the companies based on the Audited Balance sheet/ Profit and Loss Account as prescribed under the Companies Act 2013.

3.24 Comments on the contents of proforma on the basis of which net worth for the new entities is to be calculated?

Response: The content of the proforma as prescribed by the Authority in terms of ANNEXURE – II is fine for calculating the net worth only in the case of new entity comprising of a single individual LLP. In case of a new Partnership firm net worth of each partner could be calculated on the basis of the proforma recommended by the Authority provided the assets of all the partners taken are brought in as corpus of their respective investment in the said partnership firm as their individual share in terms of their contribution. The Net worth certificate could be obtained from the Auditors of the partnership firm to that effect whereby the investment of all the partners in the said partnership firm meet the criterion of the net worth suggested herein above.

Conclusion: Ministry of Information and Broadcasting (MIB) presently does not have a criterion of prescribing a minimum net worth for any new entrant MSO except an entry fee of Rs. 100,000/- which is abysmally low. There is no level playing field when you compare the minimum net worth requirement prescribed for uplinking/down-linking of non-news and news channels by a Broadcaster or for DTH and HITS operators. Moreover, due to lack of stringent standardized norms for registering of entities as MSOs, it has been seen that MSO tend to seek registration in multiple names and indulge in the practice of discontinuing their business overnight and re-start the same business of distribution of TV channels in a different name. Also, it has been observed that when these MSOs have this flexibility to discontinue business without any fear of law, they tend to keep huge outstanding of the Broadcasters as arrears. The Broadcasters cannot recover these dues as the promoter(s) of the MSO entity do not have any Fixed assets in their own names. At times these MSO also take up the route of running the business in proxy names as well. In order to put stop to these practices, it is suggested that a minimum net worth be prescribed by the authority to ensure total transparency in the declaration of assets by the promoter MSOs. Moreover, it is also suggested that the Authority should introduce a rule whereby if an MSO with a valid registration fails to commence business within one year, then his registration will stand cancelled due to efflux of time at the end of the year so as to deter him from resorting to the above mentioned modus operandi whereby ready valid registration is available to start the same business under a different name. Presently there are 328 MSOs having a valid registration but are not operational.

once a minimum net worth is ensured, it will also result in financial viability of the MSO for delivering quality service to its customers by having a proper call center, latest installation and utilization of technology for better viewing experience for its subscribers. Over and above, it will also eliminate such non-scrupulous MSO entities who are fly by night operators
