Telecom Regulatory Authority of India

Recommendations

on

"Issues relating to Policy Guidelines for Uplinking & Downlinking of Television Channels in India"

(Response to back reference received from Ministry of Information and Broadcasting (MIB) on TRAI's Recommendations dated 25th June 2018)

4th April 2019

Mahanagar Doorsanchar Bhawan
Jawahar Lal Nehru Marg
New Delhi- 110 002

Response to back reference received from Ministry of Information and Broadcasting (MIB) on TRAI's Recommendations dated 25th June 2018

After considering the MIB views on various recommendations, the Authority has finalized its response. The earlier TRAI recommendations, views of MIB and the response of the Authority are provided below:

ISSUE 1: Definitions of 'News and Current Affairs channels' and 'Non-News and Current Affairs Channels' (Para 4.1 of the Recommendations)

A. TRAI Recommendations

The existing provisions of meaning of 'News and Current Affairs TV channels', and 'Non-News and Current Affairs TV channels' mentioned in the uplinking and downlinking guidelines dated 05.12.2011 should be converted into definitions. Accordingly, the Authority recommends following definitions:

(a) "News and Current Affairs TV channels': A channel which has any element of 'News & Current Affairs' in its programme content.

(b) 'Non News and Current Affairs TV channels': A channel which does not have any element of 'News & Current Affairs' in its programme content.

B. MIB Views

A simple definition of news can be provided. MIB has stated that as per Webster Dictionary defines news as "a report of recent events". Hence, any channel that primarily broadcasts news i.e. reports on recent events in the course of its daily broadcast can be classified as a "News and Current Affairs Channel.

C. TRAI Response

Content aired on the 'News and Current Affairs channels' is the most relevant from the perspective of informing and influencing public opinion. A news content of even a very small duration could be very sensitive for public perspective. The Authority does not agree that it is appropriate to define a 'News and Current affairs TV channel' based on the duration of news content broadcasted on a channel. Any specific definition for each category of channel, beyond what is already mentioned in the policy guidelines, may also have the risk of leaving vacant space in between "News and Current Affairs TV channels' & 'News & Current Affairs' definitions.

In order to bring more clarity the meaning of 'News and Current Affairs TV channels', and 'Non-News and Current Affairs TV channels' as mentioned in the existing guidelines should be converted into definitions and should be explicitly mentioned under the head definitions

In view of the above, TRAI reiterates its earlier recommendations

ISSUE 2: Net-worth of eligible companies

(i) Para 4.2 of the Recommendations

A. <u>TRAI Recommendations</u>

Existing amounts of minimum net-worth of an applicant company seeking permissions for uplinking and downlinking of TV channels, as prescribed in the existing uplinking and downlinking guidelines dated 05.12.2011, should be continued:-

S.No.	Permission	Net-worth
1.	For uplinking of 'non-news & current affairs TV channel'	For 1st TV channel: Rs. 5 Crore For each additional TV channel : Rs. 2.5 Crore
2.	For uplinking of 'news & current affairs TV channel'	For 1st TV channel: Rs. 20 Crore For each additional TV channel : Rs. 5 Crore
3.	For downlinking of TV channel	For 1st TV channel: Rs. 5 Crore For each additional TV channel: Rs. 2.5 Crore

B. <u>MIB Views</u>

There should be rational basis for arriving at an entry level net-worth for television business. No such exercise has been done by TRAI. They have only issued a consultation paper followed by OHD and have subsequently issued the recommendation.

C. <u>TRAI Response</u>

The reason for not changing the existing amounts of minimum net-worth of an applicant company seeking permissions for uplinking and downlinking of TV channels, as prescribed in the existing uplinking and downlinking guidelines dated 05.12.2011, are already explained in TRAI's recommendations dated 25.06.2018 as follows :-

"….A very high net-worth requirement would deter new entrepreneurs from entering into this sector. Reduced competition due to increase in entry barriers might also affect prices of the channels for the end consumer. Moreover, high net-worth criteria could also discourage the growth of local and regional channels, thereby affecting overall program diversity.

In view of the above, TRAI reiterates its earlier recommendations

(ii) Para 4.3 of the Recommendations

A. <u>TRAI Recommendations</u>

a) A self declaration, in a prescribed format, stating that the applicant company meets net-worth requirements, as specified under the policy guidelines, should be taken from the applicant company at the time of submitting the application. This declaration should be supported with duly audited financial statements of the company.
b) The requirement of examining net worth, ownership details, shareholding pattern and its effect on net worth etc., by the empanelled CA should be done away with

B. **MIB Views**

The expert examination by Chartered Accountant cannot be done away with especially for news channels. Hence, this recommendation is not acceptable.

C. **TRAI Response**

i. The assessment of net-worth and ownership details of an applicant, for obtaining the permissions as enunciated in the guidelines is duly recognised. The purpose of the Ease of Doing Business exercise is to identify the source of authenticated information and to avoid duplicate processes. In case an applicant submits any statutory compliance with any government/agency then the same document should suffice without necessitating a re-verification.

ii. Herein applicants being a registered company/LLP are enjoined by 'The Companies Act 2013', 'The Limited Liability Partnership Act 2008' and SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, to file balance sheet, shareholding structure and ownership details. Such balance sheets and statutory documents are certified by the company directors and the auditors (Chartered Accountants). Running the same document (submitted by the applicant) through verification by another empanelled Chartered Accountant is only a repetitive check and does not add value.

iii. Further, even if there are some more information (that are not available in statutory compliance documents), is necessary then MIB may design and notify the same as mandatory annexure to the application. Such form/format can contain due and binding undertaking by the applicant and also have the certification/verification by the Company Auditors/Chartered Accountant.

iv. Any Chartered accountant (CA) is a registered professional and subject to the disciplinary scrutiny and authority of Institute of Chartered Accountant of India (ICAI)/National Financial Regulatory Authority (NFRA). Therefore, once a CA has certified any information, the extant statutory provisions should be considered as sufficient that the information certified by such professional is genuine

In view of the above, TRAI reiterates its earlier recommendations.

ISSUE 3: Entry Fee and License fee (Para 4.8 of the Recommendations)

A. <u>TRAI Recommendations</u>

The permission fees prescribed in the uplinking and downlinking guidelines dated 05.12.2011 should be increased by a factor of 1.5. Accordingly, the Authority is of the view that:-

(i) the annual permission fee for uplinking of TV channel from India should be increased from Rs. 2 lakh to Rs. 3 lakh;

(ii) the annual permission fee for downlinking of a TV channel, uplinked from India should be increased from Rs. 5 lakh to Rs. 7.5 lakh; and

(iii) the annual permission fee for downlinking of a TV channel, uplinked from foreign soil, should be increased from Rs. 15 lakh to Rs. 22.5 lakh

B. <u>MIB Views</u>

Agree. However, TRAI may share the basis for the recommended enhancements

C. <u>TRAI Response</u>

Para 2.55 of the TRAI's Recommendations dated Issues relating to Policy Guidelines for Uplinking & Downlinking of Television Channels in India mentioned that :-

“A very high amount of fixed fee per annum can act as entry barrier to the new entrants in the sector. Therefore, license fee structure should be simple and the amount of license fee should be moderate. The present amount of permission fees for uplinking and downlinking of satellite TV channels were fixed in the year 2011. The Authority has noted that the Wholesale Price Index (WPI) has increased by a factor of approximately 1.2 since 2011. Further, permission fees recommended now will likely to remain effective till next review of permission fee, in case these recommendations are accepted by MIB. Therefore, the permission fees prescribed in the uplinking and downlinking guidelines dated 05.12.2011 recommended to be increased by a factor of 1.5”.

ISSUE 4: Operationalisation of TV channel (Para 4.10 (ii) of the Recommendations)

TRAI Recommendations

In case the signals of a permitted TV channel, already operationalised, remain discontinue for a continuous period of one year, permission granted for such channel should be withdrawn by MIB after following due procedure

B. MIB Views

MIB is of the opinion that discontinuation of broadcast for more than 30 days continuously should be considered as a channel being non-operational. Period of one year as recommended by TRAI is too long

C. TRAI Response

This is an administrative matter. MIB may take decision based on the facts available.