



April 30, 2024

To,
Shri Tejpal Singh,
Advisor (B&CS)
Telecom Regulatory Authority of India ('TRAI')
Mahanagar Doorsanchar Bhawan,
Jawaharlal Lal Nehru Marg,
New Delhi – 110002
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Subject: Consultation Paper dated 2nd April, 2024 on "Inputs for formulation of National Broadcasting Policy-2024"

Dear Sir,

We write to you in response to the Consultation Paper promulgated by TRAI on 02/04/2024 on '**Inputs for formulation of National Broadcasting Policy-2024**' ("**Consultation Paper**").

Please find enclosed herewith our responses to the issues raised by TRAI in the Consultation Paper.

We hope that our submissions shall be considered favorably by TRAI while evaluating changes to be carried out.

Thanking you,

Yours sincerely,
For Culver Max Entertainment Private Limited
(formerly Sony Pictures Networks India Private Limited)

[Ritesh Khosla \(Apr 30, 2024 19:52 GMT+5.5\)](#)

Ritesh Khosla
Deputy General Counsel and Head-Standards & Practices

Encl.: Comments on the Consultation Paper

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Go-Beyond

COMMENTS OF CULVER MAX ENTERTAINMENT PRIVATE LIMITED (FORMERLY SONY PICTURES NETWORKS INDIA PRIVATE LIMITED) (“CME”) TO THE ISSUES RAISED IN THE CONSULTATION PAPER ON NATIONAL BROADCASTING POLICY-2024:

Introduction

On April 02, 2024, the Telecom Regulatory Authority of India (“TRAI”) released the Consultation Paper for seeking inputs on formulation of National Broadcasting Policy-2024 (“**Consultation Paper**”). The Ministry of Information and Broadcasting (“MIB”) had asked the TRAI to provide inputs for the formulation of the National Broadcasting Policy (“**Policy**”) in July 2023, following which the latter issued a pre-consultation paper on formulation of the Policy on 21, September, 2023 (“**Pre-Consultation Paper**”), seeking comments on the issues to be included in this Policy.

The Consultation Paper seeks inputs on the broad objectives of the consultation; suggestions, *inter alia*, on Public Service Broadcasting, Economy Measures and Contributions; Universal Reach, Indigenous Manufacturing, Skill Development, and Startups Ecosystem; Making India a Content and Uplinking Hub; Policy, and Regulation; Combat Piracy and Content Security; Digital Terrestrial Broadcasting; Audience Measurement and Rating System; Grievance Redressal Mechanism; Social-Environmental, and Disaster Responsibilities; and comments on other segments like FM radio stations, community radio stations, online gaming, music, films, animation, VFX, and post-production.

We appreciate the TRAI for undertaking a public discussion on the Consultation Paper and providing us the opportunity to provide primary thoughts initially and contribute towards the formulation of the Consultation Paper. We have preliminary concerns and objections about the scope, ambit, and topics covered in the Consultation Paper, as we believe that on the vast majority of issues, the Consultation Paper goes beyond TRAI's jurisdiction. These are important jurisdictional issues which had been raised pursuant to the Pre-Consultation Paper, however, the same do not seem to have been addressed under this Consultation Paper as well. The foregoing mentioned issues, go to the core of the Consultation Paper and should be decided at the outset before proceeding further with the exercise.

Given below are our preliminary concerns pursuant to the Consultation Paper:

A. Broadcasting vs Streaming and overlap with Broadcasting Services Bill, 2023

Under the Allocation of Business Rules, 1961, the Ministry of Electronics and Information Technology (“MeitY”) administers the Information Technology Act, 2000 and other policy matters and laws related to information technology, the internet, including digital media/streaming/Online Curated Content Providers.

In exercise of the powers conferred by sub-section (1), clauses (z) and (zg) of sub-section (2) of section 87 of the Information Technology Act, 2000 (“**IT Act**”), the central government notified the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, on February 25, 2021 (“**IT Rules**”). Part II of the IT Rules were made applicable to intermediaries (like YouTube, WhatsApp, Facebook, etc.), including social media intermediary, significant social media intermediary, online gaming intermediary (*amended from time to time*) and Part III of the IT Rules were made applicable to publishers of online curated content and publishers of news and current affairs



content. Further, MeitY implements these Rules in synchrony with the MIB, which is a nodal ministry for the OCCPs.

Additionally, the IT Rules define the “Publisher of Online Curated Content/OCCPs” as a separate category to mean “a publisher who, performs a significant role in determining the online curated content being made available, makes available to users a computer resource that enables such users to access online curated content over the internet or computer networks, and such other entity called by whatever name, which is functionally similar to publishers of online curated content but does not include any individual or user who is not transmitting online curated content in the course of systematic business, professional or commercial activity”.

IT Rules have introduced age classification, content descriptors, and parental controls. IT Rules have also provided for Code of Ethics and required the OCCPs to have grievance officer. It also prescribed a 3 tier self-regulation mechanism. The OCCPs have been implementing these measures and many of the major OCCPs are already compliant, including our OTT platform viz. Sony LIV.

Inclusion of the OCCPs within the Policy, would not only result in immense confusion within a well settled environment but would make the entire ecosystem of digital media counter productive. On closer scrutiny of the OCCPs and broadcasting services, stark differences can be noticed. A broadcasting network operator ‘pushes’ certain fixed content simultaneously to all its viewers, while in the case of OCCPs, it is the individual viewer who ‘pulls’ a piece of content of their choice by way of deciding what to view. It is, therefore, arguable that regulations for content that an individual user decides to view should differ from regulations governing content that is pushed or “broadcast” to all users.

Additionally, TV broadcasting is distinct from OCCPs/digital media as it uses satellite and needs distribution platform operators to transmit content. Also, TV content is meant for public viewing. In contrast, OCCPs make their content available on the internet, on their own platforms, that users can access only through a website or application. Their content is non-linear, on-demand and not intended for public exhibition. In the matter of “*All India Digital Cable Federation vs. Star India Private Limited (Broadcasting Petition/217/2023)*”, the Telecom Disputes and Settlement Appellate Tribunal (TDSAT) had rightly held that such services are not akin to TV channels, based on several distinctions between the two, and separate laws that govern either service.

On 10 November 2023, the MIB published the Draft Broadcasting Services (Regulation) Bill, 2023 (“**BSR Bill**”) for public consultation. The BSR Bill contemplates replacing the Cable Television Networks (Regulation) Act, 1995 and seeks to broaden the regulatory framework by including over-the-top (OTT) streaming platforms including OCCPs (“**OTT Platforms**”) along with the channels for which the permission of up-linking and downlinking have been granted by the MIB. Further, the BSR Bill proposes to bring the OTT Platforms at par with cable network, direct to home (DTH), internet protocol television (IPTV), and headend in the sky (HITS). Also, we anticipate that the MeitY would soon initiate consultation on the prospective Digital India Act (“**DIA**”). The MeitY has, on various occasions, conveyed the objective of the DIA to be ‘principles & rule-based approach’ provides a broad legislative framework for governing the digital landscape through rules notified by the central government for each sector/industry such as social media intermediary, online curated content, online gaming intermediary, e-commerce, fintech, edtech platforms, etc. The DIA being an umbrella legislation would replace the Information Technology Act, 2000 along with rules issued thereunder. On 29th November, 2023, the Union Minister of MeitY said that the DIA will be taken up for enactment and execution post Lok Sabha Election -2024, as it would require elaborate consultation.

In light of the above, we humbly submit that digital media/OTT platforms/OCCPs are not part of the broadcasting ecosystem and therefore should not be covered under the Policy. The MIB should let the MeitY and Indian Parliament take the first step in setting the “principles & rule-based approach”



through the DIA, a light touch governing framework which is expected for the composite digital landscape for governing the OTT Platform. Further, discussions regarding the BSR must be settled to evade any potential overlaps prior to the MIB/TRAI indulging in any further consultation/initiating any further action with regard to the Policy.

B. Level Playing Field between Public Broadcaster and Private Broadcasters

To foster the robust policy roadmap for media and entertainment industry, the Policy to address the long-standing need of creating sustainable Public-Private Partnership (PPP) model in media and entertainment industry and provide footholds for equal level playing opportunities between Prasar Bharti and Private Broadcasters.

On several aspects, the public broadcaster is in a privileged position compared to private broadcasters. For example, Prasar Bharati charges heavy fees for carrying the channels of the private broadcaster by way of a “slot fee” through its auction process thereby trying to maximise its profits. There is a need to bring in more transparency which is more aligned to the goals for which Prasar Bharati is established instead of just focusing of revenue maximisation. Also, the Prasar Bharati Channels should not be mandatorily carried by private DPOs in the base pack.

Further, under the Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Act, 2007 (“**Sports Act**”), the private broadcasters have to mandatorily share feeds of sports and events of national importance with Prasar Bharti. Even though, private TV channels and news channels in particular broadcast several programmes that are socially relevant, they are subject to mandatorily sharing feeds. Prasar Bharati attempts to maximise its revenue and minimise costs by demanding the clean feed of various content from private broadcasters free of cost which are not even events of National importance. While Prasar Bharati does not remit any subscription fees to the private broadcasters whose channels are being retransmitted on DD Free Dish, it charges exorbitant fees from broadcasters for carrying its channels. To ensure the objective of maximizing access, private broadcasters should be allowed to provide the feed of its TV channels directly to Prasar Bharati for a cost, and the methodology of selecting events/programs of “national importance” should be streamlined.

The Policy should aim to enable Prasar Bharti to fulfil its objectives by reforming its governance structure, establishing a review process to ensure that the public broadcaster meets objectives, and focus on capacity building within the public broadcaster. As the costs for acquisition of sporting rights are very high and the rights holders need to recover their investments, Prasar Bharati should not expand the scope of the Sports Act which will discourage private sports broadcasters to acquire such sporting rights thereby depriving the consumers at large of quality content.

C. Regulatory framework on Distribution, Technology, Infrastructure Sharing, STB Encryption and Digital Rights Management.

There is an urgent need to create a regulatory framework to address, clarify, and resolve content protection issues that stem from system / equipment providers (conditional access system (CAS), subscriber management system (SMS), set-top-box (STB) and digital rights management (DRM) providers) (“System / Equipment Providers”). We believe that this can be achieved by making system



and equipment providers responsible for inter-alia following Schedule III and Schedule IX requirements of the TRAI's interconnection regulations as well relevant provisions quality of service regulations. Concerns regarding QoS and subscription management can be addressed through an accountability framework for technical and service standards compliance by DPOs.

The CAS should be able to tag and blacklist VC numbers and STB numbers that have been involved in piracy in the past to ensure that such VC or the STB cannot be re-deployed. CAS should further be capable of detecting clone / duplicate STBs running in the network of the distributor of television channels

In case the distributor of television channels has deployed hybrid STBs, such distributors should be able to block / remove any piracy related Apps installed in the STB which are used by the subscriber to view broadcaster's content in unauthorized manner.

The CAS & SMS vendor must have unique CAS and SMS ID for each installation of each CAS and SMS. The distributor of television channels shall ensure that this unique ID is always mandatorily carried in the Transport Stream as part of Digital Video Broadcasting information. This will help in curbing piracy.

CAS and SMS vendors should get their system recertified at periodic intervals to confirm adherence to all security, processes and control requirements. CAS vendor should also test and certify all deployed STBs every 6-months or yearly because box security level gets lowered by time and it requires updated security patches by CAS vendor else these boxes become piracy gateway soon.

Infrastructure Sharing:

The CP discusses the sharing of infrastructure among players in the broadcasting sector. We are of the view that the infrastructure sharing between Distribution Platform Operators (DPOs) poses a risk to the well-being of the industry. This is because the sharing of core infrastructure such as CAS, SMS, STBs/ fingerprinting may increase the possibility of Broadcast Network Operators under-reporting the subscriber numbers. You would appreciate that under-reporting of subscriber data by the DPOs is a long-standing concern in the broadcasting industry which Broadcasters have raised before TRAI and MIB.

Broadcasters own the intellectual property over the content that is broadcasted and will require certain technical standards to be met before their content can be retransmitted over shared infrastructure. The technical measures include but are not limited to the ability of DPOs to generate accurate Monthly Subscriber Reports, the ability to conduct joint and simultaneous audits, and measures to protect against illegal and unauthorized retransmission of signals of broadcasters' TV channels.

The CP contemplates the possibility of the broadcasting sector and telecommunication sector utilizing each other's infrastructure. The policy should refrain from recommending infrastructure sharing between broadcasters and telecommunication providers as there is limited evidence of any convergence between the two sectors. Furthermore, there is no concrete evidence of any market failure that may require convergence of broadcasting and telecommunications regulation. While Converged regulatory frameworks may have been adopted for broadcasting and telecommunications in some other countries. However, from a India perspective, it already has different ministries and regulators in place, with expertise in their respective sectors.

In continuation to our preliminary concerns stated above, we are providing our response few of the concerned issues that are raised in the Consultation Paper as mentioned hereinbelow:



Proposed consultation issued raised by TRAI	CME Comments
<p>Q1. Stakeholders are requested to provide their inputs in framing the Preamble, Vision, Mission and Broad Objectives for the formulation of the National Broadcasting Policy (NBP).</p>	<p>Preamble. The Policy should:</p> <ol style="list-style-type: none"> a. seek to acknowledge the integral role of broadcasting in India's economic landscape. b. aim to champion the constitutional guarantee of freedom of speech and expression, ensuring that broadcasting remains a potent tool for widespread dissemination of information, education, and entertainment, c. seek to propel the broadcasting sector as a catalyst for intellectual property creation, global promotion of Indian culture, connectivity for the Indian diaspora, and a generator of employment opportunities, positively influencing tourism and related industries. d. aim to leverage India's favourable position in broadcasting, having maximized access to communication technologies, to harness the country's economic strengths, such as abundant labour, a large domestic market, and competitive creative industries. e. aim to introduce policy certainty and predictability in policy formulation and regulation and establish a strong foundation for an enabling environment that supports orderly growth. Recognizing the significant investments made by broadcasters and media organizations in content creation and delivery, providing a clear and stable policy framework is paramount. This ensures a virtuous cycle of investments and growth. f. aim to embody the principle of 'Minimum Government, Maximum Governance,' advocating for minimal regulatory intervention and trust in self-regulatory mechanisms, ensuring a predictable operating environment for all players. This approach will enable better resource allocation, support the industry in developing long-term strategies, foster market-led competition, and innovation, benefiting both the industry and the consumers. g. aim to underscore the paramount role of broadcasting in the dissemination of entertainment and information and its substantial contribution as a vital development tool. h. recognize that an informed society is a precondition for sustainable development and democratic governance, and broadcasting plays a central role in this information ecosystem. By ensuring the availability of reliable and diverse content, broadcasting nurtures an environment that stimulates intellectual growth, innovation, and progress, fostering the overall development of the nation. i. be resolute in its aim to nurture a public broadcaster that operates with unwavering fairness, reasonableness, and a non-discriminatory approach, while creating, producing, and showcasing its own distinct content. <p>Vision.</p> <p>The Policy should outline a long-term vision for the broadcasting sector with separate policy roadmaps for growing the distribution/carriage infrastructure</p>

and broadcasting/content services. A globally competitive and locally driven broadcasting sector that meets consumer demands and attracts investments should be the key objective of the Policy. Systemic reforms to engender predictability in regulation, incentivize the creation of high-quality content, maximize opportunities to monetize intellectual property created in India, and build a resilient infrastructure backbone are the building blocks that the Policy should espouse. The policy should seek to grow the segment's social and economic contribution towards nation-building and set new global benchmarks in terms of both broadcasting distribution technology and high-quality globally resonant content.

Mission

- a. Introduce a structural basis for transitioning towards agile sectoral governance with evidence-led government intervention in the market and maintaining oversight and prescribing guardrails to ensure fair, transparent, and competitive interaction of market forces.
- b. Create a future-ready policy ecosystem grounded in principles of certainty and predictability.
- c. Encourage symbiotic co-existence and mutual trust among diverse stakeholder groups, and harmonious dispute settlement in business-to-business interactions through consultation, mediation, and negotiation.
- d. Provide a roadmap to bolster public sector efforts and support private sector initiatives to generate high-quality high-demand content for local and global audiences and undertake state-of-the-art infrastructural upgrades and expansion for enhanced consumer Quality of Experience.
- e. Provide a sustainable model for public broadcasting with the ability to meet evolving consumer needs for content on themes of national importance; adequately cater to the government's public information dissemination objectives; expand infrastructure in remote and unconnected areas; and produce and acquire content with due respect to intellectual property and labour involved in content creation.
- f. Enhance domestic capacity to cater to global demands for Indian content and skilled labour in specialised production techniques, rationalise approvals, permissions, and taxation, and adopt an implement global benchmarks for content protection to make India a preferred destination for content production and exports.
- g. Position India as a world leader and the first country to create a broadcasting ecosystem that innovates and experiments with emerging and new communication technologies, promotes and adopts sustainable social and environmental initiatives, and adheres to accountability and transparent data integrity practices.

Objectives. The objectives of the Policy ought to be to promote:

- a. self-regulatory framework and forbearance,
- b. nurture creativity and foster innovation,
- c. Establish level playing field between the public and private broadcasters



	<p>d. Allow private broadcasters to enter into digital terrestrial market</p> <p>e. Encourage market-driven ecosystem for the broadcasting sector ,</p> <p>f. provide for flexibility and adaptability to changing circumstances,</p> <p>g. recognise, protect and provide ecosystem for enforcement of intellectual property rights.</p>
<p>Q4. India as a Content and Uplinking Hub</p> <p>What other policy and regulatory measures should be adopted in the policy for creation and expansion of quality Indian content to make India the 'Global Content Hub'? Further, suggest how to extend Content developers in terms of training, infrastructure and incentives. Provide your comments with detailed explanation.</p>	<p>Since content related aspects are outside the purview of TRAI's jurisdiction, we would request TRAI not to delve into content related aspects in the Policy.</p>
<p>Q6. Public Service Broadcasting</p> <p>What broad guiding principles, measures and strategies should be considered in the NBP to strengthen India's public service broadcaster (i.e. Prasar Bharati) to promote quality content creation, dissemination of DD and AIR channels and maximizing its global outreach? Also suggest, what support and measures should be provided for the proliferation of television and radio broadcasting services provided by the public service broadcaster in fulfilment of its mandate?</p>	<p>Functions listed under Section 12 (1) and (2) of the Prasar Bharti (Broadcasting Corporation of India) Act, 1990 elaborately provides for guiding principles and objectives which public broadcasting services needs to perform in order to inform, educate and entertain the public and to ensure a balanced development of broadcasting on radio and television. These functions include, <i>inter-alia</i>, upholding national unity and integrity of the Country, focused attention to the fields of education and spread of literacy, agriculture, rural development, environment, health and family welfare and science and technology, providing appropriate programmes keeping in view the special needs of the youth, minorities and tribal communities ; informing and stimulating the national consciousness in regard to the status and problems of women and paying special attention to the upliftment of women; promoting social justice and combating exploitation, inequality and such evils as untouchability and advancing the welfare of the weaker sections of the society.</p> <p>Considering the stagger outreach of DD Free Dish, reaching 92% of the geographical area and over 99% of India's population, Public Broadcaster to promote and incentivise Indian content creators to create focused content on matters of national importance as listed under functions of the Public Broadcaster on regular basis in order to maximise utilisation of the outreach potential of Public Broadcaster.</p> <p>Furthermore, in order to address the issue of affordability amongst some of the marginalized or economically weaker sections of society, there may be</p>

	Private Public Partnership (PPP) Scheme Srelated to staggered monthly payment plans to cover the one-time cost of purchasing set-top box and small sized Dish Antenna with accessories for availing infrastructure facilities. It is also likely to address, and breakthrough concern related 'TV Dark' homes in the country as enunciated in the CP.
<p>Q7. Various Segments of the Sector</p> <p>What policy measures and regulatory aspects should be adopted in the NBP to nudge the growth of Indian regional content through OTT platforms?</p>	As explained above, the OCCPs are regulated under the IT Rules, and hence the TRAI doesn't have power to regulate the content, we humbly request that TRAI should not include the same in the scope of a consultation for the Policy.
<p>Q9. Online gaming being a rising sector holds potential for contributing to economy, what policy and regulatory aspects should be adopted for the orderly growth of online gaming in India? Further, suggest measures to support local game developers to compete and grow. Also suggest safeguards to protect general public (especially while promoting healthy gaming).</p>	<p>Pursuant to an amendment dated 23rd December 2022 to the Government of India (Allocation of Business) Rules, 1961, the Meity has been appointed as the nodal ministry for matters relating to the "online games". In furtherance to the same, the Meity notified a comprehensive amendment dated 6 April, 2023, to the IT Rules, by virtue of which Meity included, and <i>inter alia</i> recognized a self-regulatory framework for the online gaming intermediaries.</p> <p>It is important to note that certain laws by the state legislatures, while legislating on betting and gambling have included online gaming and skill-based games in the scope of their respective legislatures, including Orissa Prevention of Gambling Act, 1955, Sikkim Online Gaming (Regulation) Act, 2008, Nagaland Prohibition of Gambling and Promotion and Regulation of Online Games of Skill Act of 2016, Telangana Gaming (Amendment) Act of 2017, Andhra Pradesh Gaming (Amendment) Act of 2020, Tamil Nadu Prohibition of Online Gambling and Regulation of Online Games Act, 2022, Chhattisgarh Gaming Act, 2023</p> <p>Therefore, we humbly request that TRAI should not include the same in the scope of a consultation for the Policy. .</p>
<p>Q10. What further steps and initiatives should be adopted by the Central and State Governments and the industry for the growth of animation, VFX and post-production segment? Provide your comments with detailed reasoning and justification.</p>	Animation, VFX and post-production are integral part of the content creation. TRAI doesn't have power to regulate the manner in which the content is created by the producers, studios, etc. Hence, we humbly request that TRAI should not include the same in the scope of a consultation for the Policy.
<p>Q11. What strategies and measures should be included in the policy for the music segment to enhance infrastructure development, upskilling artists, financial certainty and to resolve other</p>	The primary law governing music in India is the Indian Copyright Act, 1957 (" Copyright Act "). The Copyright Act has been amended several times, most recently in 2012. The Copyright Act protects original musical compositions, sound recordings and performances. Also, the Copyright Act comprehensively dealt with the rights of the owners, authors, and performers, including the artists.



<p>challenges being faced by artists? What steps should be taken to encourage the global promotion of Indian music and artists? Please provide your comments with detailed reasoning.</p>	<p>There are several non-profit organizations and copyright societies constituted under the Copyright Act, who are in the business of licensing, collection and distribution of the royalty in relation to the literary works, musical works, sound recordings etc.. Further, the central government governs the music sector as follows:</p> <p>Ministry of Culture: This ministry might be involved in promoting traditional and folk music through initiatives and events.</p> <ul style="list-style-type: none"> • MIB: It deals with areas like film, television, and radio broadcasting. It could be indirectly involved with music through these channels. • Department for Promotion of Industry and Internal Trade (DPIIT): Under the Ministry of Commerce and Industry, DPIIT might be involved with the music industry from a business and copyright perspective. <p>In the light of the above, and well-established framework on music, we humbly request that TRAI should not include the same in the scope of a consultation for the Policy.</p>
<p>Q13. Policy and Regulations</p> <p>With the continuous advancement of technologies and convergence of the telecom, information technology and broadcasting sectors, what policy and regulatory measures are required, beyond the existing ones, to facilitate the growth of the broadcasting sector with ease of compliance? Elaborate your comments with proper reasoning and justifications to the following issues:</p> <p>I. To enable healthy and competitive environment amongst the existing and emerging services and ensuring parity among comparable distribution mediums, while being technology neutral.</p> <p>II. To allow and encourage</p>	<p>Content regulation is very different from carriage regulation. Content regulation deals with freedom of speech and expression as guaranteed by Article 19(1)(a) of the Indian Constitution, subject to restrictions under Article 19(2). TRAI in its consultation paper dated 30.01.2023 on Regulating Converged Digital Technologies and Services – Enabling Convergence of Carriage of Broadcasting and Telecommunication service, had itself recognized that the regulatory framework for content is different for each media platform and has evolved from judicial interpretation of Article 19(1)(a) of the Indian Constitution.</p> <p>Hence, the regulatory framework for content should be kept distinct and separate from regulatory framework of carriage as the principles for regulating carriage and content are different, and the skill sets required to implement and oversee regulation of each are also different.</p> <p>Content aspects are being looked into by the MIB and it should continue to do so. The regulation of content distinctly falls outside the jurisdiction of the TRAI. TRAI's responsibilities are confined to the pricing and regulation of television channel carriage, not the content those channels broadcast. This demarcation stems from the legislative intent and framework of the TRAI Act, which is structured around the transmission aspects of broadcasting rather than the content that is being transmitted.</p> <p>The broadcaster's rights, regarding the content they choose to air, are not governed by the Telecom Regulatory Authority of India Act, 1997 ("TRAI Act"), which is focused solely on the aspects of carriage. This is evidenced by the statement of objects and reasons and the preamble of the TRAI Act, in particular Section 2(1)(k), 11 and 36. These sections collectively affirm that the TRAI's regulatory scope is carriage centric and is limited to regulation of service in transmission alone and does not extend to or include the subject matter or content of the transmission.</p> <p>Moreover, the definition of 'telecommunication service' under Section 2(1)(k) of the TRAI Act reinforces this limitation, enabling TRAI to only</p>



<p>infrastructure sharing among the players of broadcasting and that with the telecommunication sector.</p> <p>III. Any other suggestion for policy and regulatory framework.</p>	<p>regulate transmission or reception of broadcasting services, which essentially relates to regulatory measures taken for carriage of these signals. This legal structure indicates that any regulatory measures imposed by TRAI are meant to address the carriage of signals, not the content or messages those signals carry.</p> <p>There is no need for a converged framework for broadcast and telecom carriage. Further, within the media and entertainment sector itself, each service / medium has different capabilities, challenges and caters to different needs.</p> <p>Bundling of different services (like TV, broadband and voice) into one offering does not imply that both the services have converged. Such offering only enables a service provider to provide multiple services as a bundled offering and each service within the said bundle remains distinct. Since telecommunication services and broadcasting services are distinct therefore the licensing frameworks must be kept separate and the administrative government units overseeing the licensing and statutory frameworks should also be kept separate, as per the existing frameworks.</p> <p>Broadcasting Content and carriage require separate policy attention under the Policy as telecommunication services and broadcasting services are distinct. The Policy and regulatory principles that apply to the two activities i.e., (i) installing and maintaining TV distribution networks; and (ii) producing content to be distributed on TV distribution networks are different. Broadcasting carriage policy and regulation must solve for competition and ease of doing business to promote orderly sectoral growth and ensure quality of service and effective choice in consumer interest. These are the statutory objectives outlined in the TRAI Act, 1997.</p> <p>Broadcasting content policy and regulation should create incentives to produce novel and innovative content, generate Intellectual Properties that add value to the Indian economy, and provide access to diversity and plurality of opinions.</p>
<p>Q14. Combat Piracy and Content Security</p> <p>What additional measures should be adopted to combat piracy and ensure content security through copyright protection in the broadcasting sector? How can the technology driven solutions be developed and deployed to prevent unauthorised distribution and detection of the source of original content. Provide your comments with detailed explanations.</p>	<p>Amidst all the elaborate infrastructure set up by different stakeholders which builds up the television broadcast network and ecosystem, eventually it is the content or program generated or procured by the broadcasters which is sold as commodity in the Pay-TV sector. As content is the revenue driver, its security is of critical importance to the Broadcaster. As such, content piracy or breaking down the encryption is one of the key risks which a Broadcaster faces in the provision of Pay TV services.</p> <p>Broadcasting is a content-driven industry, and it is important to prioritise strong protection for intellectual property. Piracy <i>inter-alia</i> causes the Government to lose tax revenue and contributes to the growth of cash transaction-based economy, which is susceptible to be misused. There is limited legal recourse for broadcasters against piracy under cable TV regulations / TRAI regulatory framework. Legal recourse primarily lies under the Copyright Act. Copyright enforcement is undertaken by local law enforcement agencies under state governments. However, it has been experienced that the same is not very effective and as such does not serve the purpose. The need of the hour is to foster inter-ministerial cooperation (IMC)</p>



and lay the groundwork for dedicated IMC task forces to address specific challenges, such as cable television piracy, and introduce severe penalties for violations.

Compulsory implementation of existing Regulation to be made more stringent, errant distribution platforms to be punished with hefty fines and/ or with the cancellation of their licenses:

- Even though we have Audit manuals, Schedule III/IX etc to make the distribution platforms compliant, the past 4 years of the New Tariff Regime gives dismal picture on adherence of Regulation. Piracy prone systems, sub-standard equipment and massive under-declarations of subscribers using manipulative tactics by the platforms have failed the Regulation.
- To make it more system driven, transparent and subscriber friendly, implementing the existing Regulation on the field and punishing the non-compliant stake-holder is very important. Cancellation of licenses of non-compliant distribution platform operators and stringent financial penalties are the few effective remedies for such crimes.

There should be obligations that (i) prohibits the provision and deployment of non-compliant system / equipment to any Distribution Platform Operators ("DPO") and (ii) makes it mandatory for DPOs to report instances of tampering (including any attempts to tamper) to the TRAI, MIB, broadcasters, and broadcasting associations. Importantly, strict penal consequences (including penalties) ought to be prescribed in case of non-compliance of obligations by System / Equipment Providers.

Implement comprehensive piracy deterrence measures:

- Recognize the criticality of protecting the broadcast signal throughout its lifecycle, from pre-broadcast to retransmission. Develop and enforce stringent guidelines, especially for live content, to curb piracy at every stage;
- Establish dedicated task forces to address specific challenges, such as cable television piracy, and introduce severe penalties for violations (including non-bailable arrest warrant provision) to act as a strong deterrent;
- Create a dedicated cell to liaise with local law enforcement agencies, ensuring swift and coordinated action against piracy. Collaborate with the private sector to develop standardized SOPs, leveraging inputs such as lists of infringing websites. This collaboration will facilitate the issuance of notices to infringers and expedite court-ordered takedowns;
- Infringing websites, fly-by-night Apps, un-authorized URLs uploading live content like sports events with dynamic IP addresses need to be controlled and stringent action to be initiated against them;



- Make the OEMs (Original Equipment Manufacturers) accountable for their products like CAS/SMS and all other Head-End equipment with respect to signal leakage and low security. All latest anti-piracy features to get updated time to time.

Piracy on the Digital platforms

With respect to privacy related measures on the digital platforms, we humbly reiterate and submit that digital/OTT platforms (save and except IPTV) are outside the ambit of TRAI and hence TRAI should not make recommendations on digital platforms in this Policy. Without prejudice to the foregoing statement, we would like to submit as follows.

Piracy has moved on from traditional platforms such as torrents to platforms like Telegram, Pikashow, Oreo TV, livenettv and stand-alone applications that run feeds through the servers of OTT/digital platforms and cause high levels of piracy and disruption. The impact of their nefarious activities is voluminous, and the emergence of newer platforms has come with its own set of challenges.

The impact of each of these forms of piracy on content varies since they are preferred by different kinds of consumers and impact different types of content to varying degrees. Most importantly, each of these can only be remedied by different interventions. Some technologies also enable the theft of content, while others enable secure distribution. For instance, Piracy happening through the Kodi box would be more organized and might require legal intervention, it enables piracy happening at a greater scale since it directly enables consumers to access entire catalogues from their TV or device.

To tackle the issue holistically and in the long run, we need a Federal level Digital Content Protection body / cell with wide ranging powers to address all aspects of piracy, including addressing the ecosystem, piracy revenue chain, repeat offenders, etc within India.

A co-ordination mechanism of such Digital Content Protection body / cell with global digital IP enforcement agencies for all the above aspects because digital piracy is a global concern and an offence across all jurisdictions.

To adopt a strategic approach there shall be participation of all relevant stakeholders, private and government in such a Digital Content Protection body / cell to ensure a positive impact.

The policy shall streamline and enhance the administrative process for blocking websites in India.

To safeguard intellectual property rights and combat online piracy effectively, the policy shall regulate rogue platforms. These platforms require regulation and mandatory structural modifications that allow users to operate tools that will allow for the protection of owned content, similar to the way compliant platforms are operated. These modifications include:



	<ol style="list-style-type: none"> a. Availability of Content ID (Fingerprinting system) for matching pirated content. b. Takedown Tools to action piracy. c. Maximum strike and account suspensions policy to penalise repeat offenders. d. Mandatory registration requirements such as KYC to identify owners of infringing channels/accounts. e. Verification processes to screen new account registrations. <p>Digital piracy poses appealing alternatives to legitimate OTT/digital platforms to consumers across the country. Lower costs and unverified, non-KYC access to databases of content means that legitimate OTT platforms suffer in the form of subscription revenue and traffic which has a consequential impact on advertisement revenue. Piracy platforms earn revenue through advertisements also by various brands and agencies. There is a need to attack the revenue chain in collaboration with the advertisement networks, agencies and concerned government agencies since these are diverted from legitimate revenue streams through digital piracy.</p>
<p><u>Q15. Digital Terrestrial Broadcasting</u></p> <p>What policy and regulatory provisions would be required in the policy to enable and facilitate growth of digital terrestrial broadcasting in India. Stakeholders are requested to provide strategies for spectrum utilization, standards for terrestrial broadcasting, support required from the Government, timelines for implementation, changes to be brought in the current ecosystem and the international best practices. Please provide your comments with detailed justification and proper reasoning.</p>	<p>The Policy should provide footholds for private players to enter into terrestrial market, which would mean dissemination and availability of diverse content from private broadcasters to the consumer besides Doordarshan Channel and it would lead to healthy competition and enable market-driven utilization of broadband, telecom and spectrum resources.</p>
<p><u>Q16. Audience Measurement and Rating System</u></p> <p>How the strategies with respect to audience measurement and rating system in National Broadcasting Policy can</p>	<p><u>Response from Television audience measurement and additional agencies standpoint:</u></p> <ol style="list-style-type: none"> 1. BARC is an industry body that is represented by three committing stakeholders viz. IBDF, ISA and AAI without any cross holdings and conflict of interest. Thus, BARC is able to provide accurate and unbiased audience measurement and rating system. The transparent data collection and analysis methodologies is



<p>ensure, address and encourage:</p> <p>i. Establishment of a transparent, credible, and technologically equipped television audience measurement system that accurately reflects viewer preferences and behaviour</p> <p>ii. Expansion of the sample size to adequately represent the diverse landscape of television viewership, considering the anticipated growth in TV households</p> <p>iii. Integration of data from non-linear sources from digital media to cover cross-platform content consumption habits</p> <p>i Establishing a policy framework for conducting radio audience measurement in India</p> <p>ii Encouraging multiple agencies to ensure healthy competition and enhancing service quality of measurement and methodologies</p> <p>iii Adoption and utilization of modern technologies</p>	<p>maintained due to separation of the data collections as an independence function performed by BARC's subsidiary MDPL.</p> <ol style="list-style-type: none"> 2. The existing mechanism as recognised and registered under the MIB's guidelines and led by the industry through BARC has been reviewed and works well, and there is no need for any policy or regulatory changes in that regard. 3. Considering the existing sample size of 55,000 households falls short of accurately representing the current vast landscape of 182 million TV households in the country, expansion of the metered house to adequately represent the diverse landscape of television viewership is overdue. While statistically the number of metered homes may be sufficient to enhance the accuracy of the data, increasing the sample size of the metered homes in phased manner may be evaluated to refine the measurement and rating systems, so as to enable finer demographic and geographical segmentation of the audiences while ensuring that the statistical significance levels are met with. Costs will be a hindrance, but it must be explored. Innovation and R&D in this area is required. 4. The existing methodology of geographical bifurcations used for sampling of metered home could further be proportionately bifurcated across India on the basis of homogeneity of the universe of viewers that the sample represents in order to ensure that the ratings are not skewed in any manner. 5. The existence of multiple audience measurement agencies may lead to conflict in data due to divergent choices in sample selection and variances in the parameters to be measured. The operation of multiple agencies may further create ambiguity and confusion with respect to authenticity of the different ratings issued by multiple agencies. <p><u>Additional response on inclusion of OTT is as below:</u></p> <p>The present Consultation Paper suggests broadening the range of TV audience measurement to include cross-platform audience metrics that encompass OTT services. TRAI does not have the authority to make recommendations on OTT services. Without prejudice to the foregoing statement, the OTT platforms employ diverse techniques to gather insights on user behaviour and customize content accordingly:</p> <ol style="list-style-type: none"> 1. AI and machine learning-driven recommendation systems analyse vast amounts of data to personalize content suggestions on OTT and social media platforms. These systems assess users' digital interactions, learn from these engagements, and refine algorithms through data analytics. They collect and process data using content-based filtering techniques to customize recommendations. 2. OTT platforms use metrics such as Monthly Active Users to determine the number of unique users interacting with the service each month. This metric helps track viewership changes over time. For subscription-based services, an effective way to measure viewership is by monitoring the total number of subscribers.
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	<ol style="list-style-type: none"> 3. To evaluate the effectiveness and reach of advertisements, OTT platforms utilize key metrics such as Cost Per Minute and Cost Per View, which are crucial for assessing the performance of OTT advertisements and the overall marketing effectiveness. These metrics are instrumental in calculating the return on investment for OTT advertising campaigns. 4. The creation of multiple audience measurement agencies may increase the cost of operations thereby adversely impacting end users. 5. Given the extensive range of measurement tools already in use by OTT services as stated aforesaid, we feel there is no requirement for standardizing these methods with those used for TV audience measurement.
<p>Q17. Grievance Redressal Mechanism</p> <p>What other strategies should be adopted in the policy document for ensuring a robust grievance redressal mechanism to address and resolve complaints with respect to content as well as services effectively? Provide your comments with proper explanation.</p>	<p>The MIB is the nodal ministry for OCCPs under the IT Rules, which has recognized the self-regulatory framework, and is functioning well. IT Rules have introduced age classification, content descriptors, and parental controls. IT Rules have also provided for Code of Ethics and required the OCCPs to have grievance officer. It has prescribed a 3 tier self-regulation mechanism. Accordingly, the OCCPs have been implementing these measures and many of the major OCCPs are already compliant. The Policy should advocate for the principle of ‘Minimum Government, Maximum Governance,’ which means minimal regulatory intervention and trust in self-regulatory mechanisms, ensuring a stable operating environment for all stakeholders in the digital media industry.</p>

