

(By email)

August 05, 2014

Telecom Regulatory Authority of India
Mahanagar Door Sanchar Bhawan
Jawahar Lal Nehru Marg (Old Minto Road)
Next to Zakir Hussain College
New Delhi 110 002

Kind Attn: Mr. Agneshwar Sen, Advisor (B&CS)

Dear Sir,

Ref: Discovery Communications India's ("DCI") response to the Telecom Regulatory Authority of India ("TRAI") Consultation Paper on Regulatory Framework for Platform Services ("Consultation Paper")

We refer to the Consultation Paper, whereby TRAI has invited comments from stakeholders on putting together a regulatory framework for Platform Services (offered by various Distribution Platform Operators (DPOs) to their subscribers.

We thank TRAI for providing us with this opportunity to respond to the Consultation Paper, and are placing on record our suggestions (enclosed herewith).

Thanking you,

Yours sincerely,

For **Discovery Communications India**



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Encl: a/a

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DCI's response TRAI Consultation Paper on Regulatory Framework for Platform Services

A. Preliminary Submissions

- (i) We at DCI are in principle agreement with TRAI on the need to implement a regulatory framework for the Platform Services operated by the DPOs. MIB / TRAI have rightly noted that:
 - (a) local ground based channels operated by MSOs and/or LCOs are presently not subject to any specific guidelines, unlike the private satellite TV channels operated by Broadcasters;
 - (b) there is no requirement for registration of local channels / other Platform Services being delivered by DPOs; and
 - (c) since local ground based channels are retransmitted by several cable operators, they are de-facto operating as state / regional / national channels akin to a satellite private TV channel.
- (ii) The Platform Services operated by the DPOs have also been known to retransmit content recorded from private TV channels without authorization, including movies, sport feeds, popular serials which act amounts to piracy.
- (iii) With use of fibre optical cables and an increase in bandwidth post digitization, DPOs (especially MSOs) are capable to offering more of such services to their subscribers. Since there is increase in competition between various DPOs, there is a tendency on the part of DPOs to offer these services as incremental differentiators to attract subscribers. Hence, there is an urgent need to regulate such services and ensure that these services do not impinge upon the domain of the broadcasters.

B. DCI's comments on specific consultation questions raised in the Consultation Paper

Issue 1:

Do you agree with the following definition for Platform Services (PS)? If not, please suggest an alternative definition:

"Platform services (PS) are programs transmitted by Distribution Platform Operators (DPOs) exclusively to their own subscribers and does not include Doordarshan channels and TV channels permitted under downlinking guidelines."

DCI Response:

We agree with this definition. It may be elaborated to include both linear and non-linear transmission of programs, as well as any other value added service offered by the DPOs to the subscribers.

Issue 2:

Kindly provide comments on the following aspects related to programs to be permitted on PS channels:

1. PS channels cannot transmit/ include :

- 2.1.1 Any news and/or current affairs programs,
- 2.1.2 Coverage of political events of any nature,
- 2.1.3 Any program that is/ has been transmitted by any Doordarshan channels or TV channels permitted under uplinking/ downlinking guidelines, including serials and reality shows,
- 2.1.4 International, National and State level sport events/ tournament/ games like IPL, Ranji trophy, etc.

2. PS channels can transmit/ include:

- 2.2.1 Movie/ Video on demand
- 2.2.2 Interactive games,
- 2.2.3 Coverage of local cultural events and festivals, traffic, weather, educational/ academic programs (such as coaching classes), information regarding examinations, results, admissions, career counseling, availability of employment opportunities, job placement.
- 2.2.4 Public announcements pertaining to civic amenities like electricity, water supply, natural calamities, health alerts etc. as provided by the local administration.
- 2.2.5 Information pertaining to sporting events excluding live coverage.
- 2.2.6 Live coverage of sporting events of local nature i.e. sport events played by district level (or below) teams and where no broadcasting rights are required.

DCI Response:

We agree with the negative / positive list proposed by TRAI. We also agree that MIB / TRAI should continue to review this list on a periodic basis.

Issue 3:

What should be periodicity of review to ensure that the PS is not trespassing into the domain of regular TV broadcasters?

DCI Response:

We propose a yearly review to ensure the Platform Services being provided by the DPOs are in compliance with the guidelines as laid down.

Issue 4:

Should it be mandatory for all DPOs to be registered as Companies under the Companies Act to be allowed to operate PS? If not, how to ensure uniform legal status for all DPOs?

DCI Response:

We suggest that it should be mandatory for all DPOs to be registered as companies under the Companies Act to be allowed to operate Platform Services. As TRAI has correctly noted, the process for incorporation of a company has been simplified. It is also advisable to have this condition to ensure uniformity and effective enforcement of the guidelines that may be laid down.

Issue 5:

Views, if any, on FDI limits?

DCI Response:

The present FDI limits for DPOs may be maintained, subject to the condition that they should not be allowed to offer programs in the news and current affairs category.

Issue 6:

Should there be any minimum net-worth requirement for offering PS channels? If yes, then what should it be?

DCI Response:

Yes. We suggest that minimum net worth requirements should be laid down for offering PS channels. However, they may not be same as laid down for broadcasters, since the objective is to ensure that such Platform Services operate in restricted domain. The net worth requirements may be made dependent on the kind of services being offered by the DPO.

Issue 7:

Do you agree that PS channels should also be subjected to same security clearances/ conditions, as applicable for private satellite TV channels?

DCI Response:

Yes. We agree with TRAI's observation that there should be uniformity in this regard and conditions similar to those applicable on broadcasters should be applied in case of PS channels.

Issue 8:

For the PS channels to be registered with MIB through an online process, what should be the period of validity of registration and annual fee per channel?

DCI Response:

The period of validity of registration could be the same as the registration granted to broadcasters, viz. 10 years. The annual fee could be lower than the annual fee payable by the broadcasters only in case of local PS channels. If the geographical territory covered by a PS channel extends to beyond local limits (especially for say DTH and HITS platforms), then the annual fee payable for such PS channel may be the same as that levied on broadcasters.

Issue 9:

What is your proposal for renewal of permission?

DCI Response:

Renewal of permission may be considered for a similar period as the original registration, viz. 10 years.

Issue 10:

Should there be any limits in terms of geographical area for PS channels? If yes what should be these limits.

DCI Response:

There may be no limit to geographical area for PS channels, provided other conditions related to registration, security clearance, etc. are imposed.

Issue 11:

Should there be a limit on the number of PS channels which can be operated by a DPO? If yes, then what should be the limit?

DCI Response:

Yes. There should be a limit on the number of PS channels a DPO can carry to ensure that its infrastructure should be used for transmission of channels licenses under downlinking guidelines. We suggest that a DPO should not be allowed to operate more than 2 channels on its platform.

Issue 12:

Do you have any comments on the following obligations/ restrictions on DPOs:

- 12.1. Non-transferability of registration for PS without prior approval of MIB;
- 12.2. Prohibition from interconnecting with other distribution networks for re-transmission of PS i.e. cannot share or allow the re-transmission of the PS channel to another DPO; and
- 12.3. Compliance with the Programme & Advertisement Code and TRAI's Regulations pertaining to QoS and complaint redressal.

DCI Response:

We are in agreement with the above conditions.

Issue 13:

What other obligations/ restrictions need to be imposed on DPOs for offering PS?

DCI Response:

The conditions that have been proposed by TRAI seem adequate.

Issue 14:

Should DPO be permitted to re-transmit already permitted and operational FM radio channels under suitable arrangement with FM operator? If yes, then should there be any restrictions including on the number of FM radio channels that may be re-transmitted by a DPO?

DCI Response:

No comment.

Issue 15:

Please suggest the mechanism for monitoring of PS channel.

DCI Response:

We agree with TRAI's observations that the DPOs should be required to keep a record of programs transmitted through their PS for a period of 90 days. MIB may constitute monitoring committees at a suitable level for the monitoring the content of such PS channels.

Issue 16:

Do you agree that similar penal provisions as imposed on TV Broadcasters for violation of the terms and conditions of their permissions may also be imposed on PS? If not, please suggest alternative provisions.

DCI Response:

We agree that similar penal provisions should be imposed on PS.

Issue 17:

What amendments and additional terms & conditions are required in the existing registration/ guidelines/ permission/ license agreements w.r.t. DPOs for regulating the PS channels?

DCI Response:

The existing guidelines applicable on DPOs will need to be amended in line with the extent to which such DPOs are allowed to operate Platform Services.

Issue 18:

What should be the time limit that should be granted to DPOs for registration of the existing PS channels and bring them in conformity with the proposed regulatory framework once it is notified by MIB?

DCI Response:

We believe a time period of 6 months should be adequate for DPOs to bring their operations in line with the requirements laid down for PS channels.

Issue 19:

Stakeholders may also provide their comments on any other issue relevant to the present consultation including any changes required in the existing regulatory framework.

DCI Response:

No comment at present.