

BY HAND/ELECTRONIC MAIL

20.04.2018

To,
Mr. Anil Kumar Bhardwaj
The Advisor (B&CS)
Telecom Regulatory Authority of India,
Mahanagar Doorsanchar Bhawan,
Jawahar Lal Nehru Marg,
Old Minto Road, New Delhi – 110 002

Dear Sir,

Re: Submissions to Telecom Regulatory Authority of India (“TRAI”) in response to the Consultation on Issues related to Placing of Television Channel on Landing Page

At the outset, we would like to thank TRAI for giving us an opportunity to tender our views on the “Issues related to Placing of Television Channel on Landing Page”.

In regard to the present consultation process, we submit that we have perused the “Issues related to Placing of Television Channel on Landing Page” carefully. We hereby submit our comments attached as **Annexure**. The said comments are submitted without prejudice to our rights and contentions, including but not limited to our right to appeal and/ or any such legal recourse or remedy available under the law.

The same are for your kind perusal and consideration.

Yours Sincerely



Encl: As above



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**Re: Submissions to Telecom Regulatory Authority of India ("TRAI") in response to the
"Issues related to Placing of Television Channel on Landing Page"**

Kind Attention:

Advisor (B&CS)

Telecom Regulatory Authority of India,

Mahanagar Doorsanchar Bhawan,

Jawahar Lal Nehru Marg,

Old Minto Road,

New Delhi - 110 002

INTRODUCTION

The exceptional growth of the number of TV channels combined with the inherent limitations of analogue cable TV systems had posed several challenges, mainly due to capacity constraints and non-addressable nature of the network. The evolution of technology has paved way for bringing about digitization with a marked increase in number of channels and carrying capacity of a Distribution Platform Operator ("DPO"), coupled with increase of subscribers receiving TV channels through various Digital platforms penetrating to every household including to the rural areas of the country. Thus leading to a high intensity in competition amongst the broadcasters with the challenge to tap the maximum viewership, which in turn is the ultimate end to higher revenues.

The television ratings of a channel is an important challenge to every broadcaster, to put its channel on a higher pedestal amongst the other channels available. Accordingly, the practice of placing a channel on the Landing Page has been resorted to by the broadcasters. The said practice is a boon as well as a curse for the broadcasting industry, however if regulated with reasonable restrictions may be beneficial to the industry.

The Landing Page is certainly the prime property owned by a DPO, which ideally is meant for promoting and advertising. However, it is also a high and easy revenue earning property, wherein the said property is given away by the DPO to the highest bidder which necessarily is a broadcaster to place its channel at the said prime Logical Channel Number ("LCN").

The Landing Page can necessarily be a boon for a new entry broadcaster or for a newly released channel to reach out to viewers as a way of promoting its channel and with reasonable restrictions can certainly help in welcoming and providing a platform for new entries and new channels in the broadcasting industry.

However, presently it certainly is a curse for the industry wherein, big players in the industry use it as an easy tool to increase its television rating to score a better ranking amidst the channels available, amounting to discrimination between channels of the same genre who are located at a lower LCN in the said genre or cannot afford and compete to have itself placed and located on the prime landing page of a DPO.

Therefore, it is important that TRAI brings about a balance, without scaling out the offering of channels on Landing Page but to address the said issue in a manner that would in turn be beneficial for all stakeholders in the industry.

Therefore, the suggestion in accordance to Discovery Communications India is being produced in response to the questions as put forward by TRAI in the present Consultation paper.

RESPONSE TO ISSUES FOR CONSULTATION:

Q1. Do you feel that emerging concept of placing TV channel on landing page can influence TRP ratings? Suggest the action which may address the issue with justification.

Yes, the placing of TV channel on Landing Page certainly influences the TRP rating of a channel. Wherein, with a simple 'switching on' of the STB by a subscriber lands the consumer to the Landing Page until he/she decides the channels he/ she wants to watch, which is a time-consuming process wherein the consumer first scrolls through the guide/ main menu, reading the description of the content telecasted on the channel and deciding basis his/her mood to watch. While the BARO-O Meter implanted is running calculating the clock minute of the subscriber's stay on the said Landing Page.

With the present audience measurement methodology adopted, wherein a unique watermark code is embedded in the audio component of the channel to calculate the clock minute of the each channel and evaluate the TRP which undoubtedly is a brilliant mechanism to calculate the TRP, any channel on the landing page will get a undeniable distinct advantage in the TRPs it receives as and when a subscriber switches on the STB basis the clock minute the subscriber continues to say on the Landing Page intentionally or unintentionally.

As stated above, Landing Page can be a boon for a new entry channel/broadcaster to promote itself, while at the same time detrimental for the industry, especially when bigger and well-established players use it as a platform to increase its Television Rating.

Therefore, it is suggested, in the interest of all stakeholders in Broadcasting industry, that the concept of the placing TV channels on Landing Page should be continued but with the condition that only channels without the unique watermark code embedded in the audio component would be permitted to be placed on the Landing Page, thus not permitting the said channel to be in the race competing for higher TRP.

Q2. Should concept of Landing Page be defined? If so, please suggest the definition of the Landing Page with justification.

Yes, it is very important to define the term "Landing Page" for better clarity without giving any further scope to interpret in accordance to convenience. The Landing Page should be specifically defined to mean "*the initial display page on the screen the moment a Set Top Box is turned on by the Subscriber when the required subscription fee has been paid and when the Set Top Box of the Subscriber has not been blocked for any reason*".

Thus a well-defined term will leave little scope for ambiguity while setting industry standards regarding the same.

Q3. Will defining Framework for placing TV channels on landing page affect the present business model of distributors? If so, will it be considered impacting the freedom to do business by distributors of TV channels? Give your suggestions with justification.

Landing page currently is of course a high revenue business model for a distributor, however the watertight framework regulating the said concept may balance the present scenario without impacting the freedom to do business by Distributors of TV Channels, while being a win-win situation for all stakeholders in the industry and also making it non-discriminatory.

Additionally, the business model of the Distributors never included any revenue generation proposition from Landing Page prior to the implementation of DAS when Analogue systems were effective. Therefore, inclusion of Landing Page is in any case a new concept which cannot be logically considered as an integral part of Distributor's business model. The Distributors are exploiting this asset of Landing Page in the absence of a clear regulation and definition in relation to its functioning and use. This cannot be considered affecting the business model of the Distributors. An analogy may be drawn from a different industry, i.e. Ecommerce Industry in India. Until March 2016, the term 'Ecommerce' was not defined under any law or regulation. Therefore, the companies with foreign direct investments were controlling the prices of the products being sold on their ecommerce platforms in India by offering direct discounts. This aided their sales and eventually revenue generation. However, Press Note 3 of 2016 issued by Department of Industrial Policy and Promotion of India (DIPP) defined the term 'Ecommerce' and prohibited them from influencing the selling price of the products. All Ecommerce companies had to overnight change their business model to comply with the new law.

We must ensure that there is a level playing field provided for all broadcasters. There should be no room for any form of discrimination or unfair competition in the industry. If this results in change in the current business model of Distributors, one must remember that the same for the larger public interest to ensure healthy competition and level playing field for all.

As suggested above, Landing page should continue to be a platform with the intent it carries i.e. promotion/ advertisement of a channel/ content, a place to capture increased viewership by

default but at the same time without being at an advantageous position to compete in the race to earn TRPs as calculated by Broadcast Audience Research Council (hereinafter referred to as "BARC").

Thereby maintaining the sanctity of freedom to continue to current business model while maintaining public interest and healthy competition amidst various stakeholders in the industry.

Q4. Is Landing Page a natural choice of consumer while viewing TV channels? If not, why should channels, whose TV ratings are released by TV rating agency, be placed on landing page? Give your comments with justifications.

Landing page is most often not the ideal/natural choice for consumers while viewing a TV Channel. Therefore, any rating of channels that is generated out of the Landing Page is most often not true and correct. The clock minute of the channel calculated of a consumer's duration on the landing page thus should not be taken into account for calculating the TRP of a channel to create parity for all players in such competitive industry.

Therefore, TV channels whose rating are released by TV rating agency should not be permitted to be placed on the landing page, however if a broadcaster finds it necessary to place its channel on the landing page, then it should be permitted to do so provided that its steps out of the league of having itself being rated by a TV Rating Agency for the duration it continues to be on the landing page.

Q5. Whether placing of a TV channel on landing page increases television ratings? If yes, why TV Channels, whose TV ratings are released by TV rating agency, should not be barred from being placed on landing page? If no, why broadcasters are eager to place their channels on landing page? Give your suggestions with justification.

As stated above, placing Channels on the landing page undoubtedly increases TV Ratings of the channel, whose ratings are released by TV rating Agency. Therefore, as suggested above channels with the intent to increase its TV Rating should not be permitted to place itself on the landing page.

In this case, the Broadcasters will be able to utilize the other distinct advantage of landing page which is gaining eye-balls but as long as the TRP of that moment is not accounted for, the Broadcaster can make the best of its arrangement with the Distributor by giving its channel maximum possible exposure without creating an unfair advantage to the detriment of any other player.

Q6. What should be the criteria/consideration to put a TV channels on landing page? Give your suggestion with justification.

In our opinion, TV channels which are registered or TV rated should not be placed on the Landing Page. It would not only be discriminatory but will also result in unfair competition in the industry, if a rated/watermarked TV channel is permitted to be placed on a Landing Page.

Q7. Do you think the influence, if any, in television ratings by placing of TV channels on landing page can be mitigated through changes in measurement methodology of television ratings? Give your suggestions with justifications?

The present audience measurement methodology is a good mechanism, which presently does not call for any need of change. However, onus or obligation should also be placed on BARC to ensure that they do not at all rate a TV channel which is placed on a Landing Page. As suggested registered

TV channels being placed on the landing page should not be permitted to compete in the television rating process.

Q8. Please comment on the feasibility to implement user's 'last visited page' as landing page in distributors' network?

This does not seem to be practical or a feasible model as this takes away the Distributor's freedom to continue the present business model with the concept of landing page. Therefore, it is not suggested to implement the user's last visited page as landing page in Distributor's Network.

Q9. Should the landing page be used to place TV channels not having TRP rating or only to provide platform specific information? Give suggestions with justification.

As suggested above Landing Page necessarily should be used to place TV channel not registered for TRP or any rating as a means to promote and capture viewership without competing for TRP.

Q10. Any other suggestions/comments related to the issue under consideration?

It must be borne in mind that the very object and purpose of Regulation is to promote fair competition, level playing field and orderly growth of the Sector and any Regulations that lead to a contrary outcome must not be implemented / enforced by TRAI.