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Sub: IMCL's Response to Consultation Paper on Net Worth of MSO

Dear Sir:

Thank you for allowing IMCL opportunity to share our views in respect of the captioned subject-matter: attached, please find our response in connection therewith.

Best regards,

Yours sincerely,

Ajay K. Sharma

(Ajay K. Sharma)
General Counsel

May 15th, 2014

Enclosed: IMCL's Response, as above.

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IMCL's Response to Consultation Paper on Net Worth for MSOs

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?

Yes, the present rules and provisions regarding eligibility and net worth for MSOs do require a complete review, and modifications.

In order that the impact of digitalization be felt by the mass of the customer base, both in terms of quality of service provided, as well as in terms of provision of such services in line with contemporary technology, there is a need for a revision in terms capitalization of the MSO.

The mentioned rule quoted in the paper:

- 1.1** MSOs to provide cable services with addressable systems in the notified areas, whereas Rule 11(3) of CTN Rules, 1994 states that *'The Ministry of Information & Broadcasting in the Government of India shall, within thirty days of the receipt of the application, grant, or refuse, permission to the applicant to provide addressable systems in the notified areas after considering its suitability or otherwise on the basis of information given in respect of its existing operational area, actual number of subscribers and addresses of its local cable operators in each of the notified areas, commercial arrangements with the broadcasters and local cable operators, if any, **financial strength, management capability, security clearance and preparedness to supply and maintain adequate number of set top boxes for its subscribers, installation of its subscriber management system and compliance with all other quality of service standards as may be specified by the Authority'***

The highlighted portion (hereinabove) clearly points towards the necessity of MSOs to comprehensively ensure across-the-board technical capabilities eg., encryption, security systems and complete addressability, as well as

AVS

'management ability', as well as 'financial strength'. Given that working capital requirements increase incrementally at every stage of digitalization – access to robust financial resources needs to be a *sine qua non* for MSOs.

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.

Yes, there should be provisions specifying eligibility only for corporate entities, and at the outer, for limited liability partnerships, and for any other structured corporate business unit, thus allowing for accountability, for due auditing and tracking of financials. Sole proprietorships are not really susceptible to such measures.

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

Yes, we believe that Entry Level Minimum Net worth requirements should be mandatory.

We have considered the minimum net worth requirements for MSOs as follows: For National-level MSOs - Rs. 10 crores, for State-level - Rs. 5crores and for District-level players, Rs. 1 crore.¹ This will serve to ensure that only those players who are well positioned to best service the mass of customers would continue to be able to do so. Such financial depth would also allow for the ability to make the investments and technical upgradations that any business requires from time to time.

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

¹ Currently, any MSO with a MIB clearance is allowed to operate anywhere in India. This begs the question: are all MSOs technically 'National'. Further, we should draw attention to the Net-worth requirement with respect to HITS, which, in fact, is also a National cable-based service, and where minimum net worth requirement is Rs. 10 Crores.



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?

It is our submission, *supra* 3.2, hereinabove, that neither individuals, nor group of individuals should be permitted. With respect to a suggested mechanism to verify the net-worth of limited liability partnerships (LLPs), or other corporate entities, financial reports, tax returns, GST filings, and audit-reports would be good sources of information in order to do so.

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

Yes, the net-worth requirements for entrant MSOs should be based upon their area of operations. A case in point is the requirement with reference to HITS, also a pan-India cable business, which is rupees ten (10) crores. Similarly, requirements could be laid-down for State-level, and for District-level players as well. The requirement could factor in the area as well as the population of the concerned state or district as these can and do vary a great deal.

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

At the outset could be 'National' players. Such nomenclature could be allowed to those operators with networks in three (03) states and/or union territories (UTs), or more. Then we could have State-level players, with their operations restricted to one, single state or UT, only. Finally, District-level operators. The Authority could also allow for the nomenclature of 'State' level operator once that business covers over fifty (50) percent of the number of districts in that state, alongwith access to a certain determined sminimum percentage of house-holds in that state.

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.

We would draw attention to our responses to query 3.2 and 3.6, hereinabove.

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.

Distinct National, State and District level classifications could be formulated.

With respect to a mechanism, may be draw attention to our response to query 3.6, hereinabove.

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.

It is our view that given a consensus amongst policy-makers – such an initiative can well be considered. Challenges of topography given the mountain terrain, access, climatic conditions, sparse population density, besides constituting a pro-active step towards allowing customers in remote areas the opportunity to join the national audience.

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

We would leave this to the discretion and to the wisdom of our policy-makers.

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

Herein, we could use the same criteria as identified in the consultation paper *ie.*, Head-end establishment costs, CAS and SMS installation costs,

STB deployment and cables-seeding costs.

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

Variable costs include broadcast-centre costs, costs towards hiring and retaining a well-trained and skilled manpower team, including technical staff for the maintenance of the cable network, investments in the hard-ware required to set-up and maintain such a network.

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?

Business requirements change considerably depending upon the scale of operations. For starters, a national-level operation would require the installation and maintenance of multiple head-ends across the country, and by way of a mirror-effect, would also require the establishment of offices, and the recruitment of staff nation-wide. Similarly, the movement of STBs across states, consequent invoicing, the requirements of maintaining tax compliance, and manpower required in order to ensure the meeting of all these requirements.

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.

It is our submission that there cannot be a fixed average cost as incurred or such as maybe incurred by an entrant – the variables in this regard, as discussed, *inter alia*, in our response to 3.13, above, are many and while a minimum net-worth requirement is, therefore, appropriate, an average fixed-cost one would extend the point.



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

As detailed in earlier responses, both fixed costs and variable costs are to be considered.

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.

We are constrained to draw attention to our response to query 3.14, hereinabove.

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?

Our response to query 3.17, hereinabove, is not in the affirmative.

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

It is our submission that the number of subscribers and a prescription for minimum net-worth have no connect. The minimum net-worth can be linked with area of operation (national, state or district), *supra* 3.2, hereinabove. Furthermore, should the minimum net-worth be linked to the number of subscribers, and should the number of subscribers decrease – or increase – over a period of time, would the net-worth requirement then become, for that operator, a similarly, dynamic figure.



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?

Our response to query numbered at 3.18 is not in the affirmative.

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

The criterion of net worth could be viewed in the back-drop of a national foot-print as against a state-level or a district-level business operation.

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?

It is our submission that applications from individuals not be entertained.

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?

We take this opportunity to reiterate our submission that an individual ought not to be permitted to seek MSO registration.

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?

Audited financial reports, TAN number, PAN number, GST registration, source of funding, details of FDI, if any, corporate tax returns details, over-all ownership pattern, and business plans.



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

The audit should happen as per relevant laws eg., the Companies Act, and regulations governing the conducting of a regular business-audits.

Sample Proforma for calculating net worth for new entities

Net worth of _____ (Name of partner/ Proprietor)

A.	Listed (Quoted) investments in the name of the applicant (at market value)	
B.	Margin of 30% on market value of listed (quoted) Investments	
C.	Net value of listed Investments (A) – (B)	
D.	Investments in unlisted (unquoted) companies (as per Note No. 2)	
E.	Margin of 50% on (D)	
F.	Net value of unlisted Investments (D) – (E)	
G.	Other Investments (at cost) with PPF and NSC at current value, Statutory deposits with Ace, Deposits with registered NBFCs, Bank FDs	
H.	Total Net Investments (C) + (F) + (G)	
I.	Market Value of Land & Building component of the Fixed Assets	
J.	Margin on I at 50%	
K.	Net value of such fixed assets (I – J)	
L.	Debtors not exceeding 3 months + Cash & Bank balance	
M.	Current Liabilities	
N.	Long term liabilities	
O.	Net worth (H + K + L) – (M + N)	

Our suggestion is that to this list, we could add “Component of FDI, if any”.

Place

(Name of Accounting Firm)

Date:
