

Media Watch-India

Campaigning for decency and accountability in the media

(Regd. 884/2008)

www.mediawatchindia.org

<u>President:</u> Prakash Singh, IPS (Retd.) Formerly DG, BSF	<u>Vice-President:</u> EdaraGopi Chand, Gandhian& Social Activist	<u>Gen. Secretary:</u> CVL NarsimhaRao, Advocate & Film Artist.
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Date: 5-8-2014

To
Agneshwar Sen,
Advisor (B&CS), Telecom Regulatory Authority of India,
Jawaharlal Nehru Marg, New Delhi – 110 002.

Sir,

Sub: Comments/Counter-comments on consultation paper No. 7/2014
(Regulatory Framework for Platform Services) - reg.

Kindly find enclosed the Annexure-A on above subject. The receipt of the same may please be acknowledged.

Thanking you.

Yours truly,

Edara Gopi Chand.

Address: # 11-7-17, Navodaya Nagar, Narasaraopet, Guntur Dt., Andhra Pradesh.

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Annexure - A

(Comments by 'MediaWatch-India' to TRAI on consultation paper No. 7/2014
[Regulatory Framework for Platform Services])

Preliminary Submissions:

1. The reference from the Ministry of Information and Broadcasting vide D.O. No. 9/16/2013-BP&L dated 17-01-2014 sought recommendations on the issue of putting in place a regulatory framework for ground-based channels being operated at the level of Cable TV operators/MSO's. The reference is in continuation to the recommendations of TRAI on 'Restructuring of Cable TV Services' dated 25-07-2008 and the whole of the 4 page reference revolves around MSO's, LCO's, local or ground-based channels.

Further, there is no reference to any other TV distribution platforms, namely DTH, HITS or IPTV and the possible reason behind such exclusion is that they are expressly prohibited (e.g., Article 6.7 and 10.1 of the Terms and Conditions in case of DTH operators etc.) by their respective guidelines and licensing Agreement to 'transmit' any content other than 're-transmitting' the channels registered under Uplinking and Downlinking Guidelines.

2. Para 6 of the consultation paper reads: "*In addition to re-transmission of programs of the TV channels obtained from the broadcasters, DTH operators also transmit certain other programs which are not obtained from the broadcasters and as such are not covered under uplinking/downlinking guidelines issued by MIB.*" Para 1.26 reads: "*As per DTH license agreement also, no licensee shall carry or include in his DTH service any television broadcast or channel which has not been registered by the Central Government for being viewed within the territory of India. Therefore, PS channels which are being operated by DTH operators need to be registered.*"

Provision of such programs/content/channels (other than value added services which also require specific licence) directly by DTH operators is blatant violation of article 6.7 of DTH guidelines. **That being the clear legal position, TRAI should have highlighted the issue of DTH operators trespassing into the domain of broadcasting making a mockery of statutory guidelines. Instead, it is surprising to see TRAI treating the illegal activity of carrying unregistered channels by DTH operators as a sort of normal 'practice' and proceed to make consultation on such activity which is otherwise illegal under extant provisions of law.**

Presently, almost all the DTH operators are 'broadcasting' their own 'channels' to their subscribers in gross violation of DTH guidelines. Moreover, they are carrying commercial and self-promotional advertisements on 24*7 basis in their channels which is gross violation of Advertisement Code. Information under RTI Act revealed that none of the DTH operators were granted any specific licences for providing value-added services which is mandatory under article 10.1 of DTH guidelines. Thus, thanks to the spectator role played by Ministry of I&B & TRAI, the DTH operators are exploiting 'air waves' a public property, in blatant violation of statutory provisions. MWI is shortly moving Court of Law on this issue.

In as much as the cable TV network is concerned, The MSO's and local cable operators (LCO's) are permitted to run ground-based 'local' channels under Rule 2(C) definition read with rule 6(6) of The cable Television Networks Rules, 1994.

3. From the point of view of various parameters, viz., technology, extent of geographical area catered, statutory provisions applicable, nature of programs/VAS offered etc., MSO's/LCO's are completely different from other DPO's such as HITS, DTH & IPTV.

This being the position, we wonder how the authority has exceeded its brief and brought in DTH, HITS and IPTV platforms within the ambit of current consultation paper and created a common definition for 'platform services'.

In view of above, MWI is of the opinion that the consultation by TRAI should be strictly limited to the provision of content and services offered through ground-based channels operated by MSO's and LCO's. With this presumption, the following comments/counter-comments are being offered for the consideration of the Authority.

ISSUE-BASED COMMENTS

**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."

No, the very term 'platform services' should be replaced with an appropriate term signifying that the services being referred are those offered only by Multi System Operators (MSO's) and Local Cable Operators (LCO's), e.g., 'Local Content and Services' (LCS).

Further, the definition needs to be modified as below in view of preliminary submissions above and some other deficiencies:

*“Local Content & Services (LCS) include any content transmitted or Value-added services offered (Movie on Demand, Interactive games etc.) or **any other ancillary facilities provisioned (e.g., EPG etc.)** by Multi System Operators (MSO’s) and Local Cable Operators (LCO’s) exclusively to their own subscribers or **subscribers of their linked cable operators, as the case may be,** but doesn’t include private satellite TV channels registered under downlinking guidelines, channels owned and operated by Prasar Bharathi, **Lok Sabha TV, Rajya Sabha TV** and any other channel operated by Prasar Bharathi/Parliament/Government of India.”*

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,

Local Content & Services (LCS) should include news or current affairs contents which serve as window for local public to know the happenings around the neighborhood.

However, restrictions can be placed on such NEWS coverage, limiting the coverage to a particular geographical area, preferably the district level, at the maximum.

2.1.2 Coverage of political events of any nature,

NEWS would include political events of any nature and hence banning of coverage of any political events would go against democratic principles and blocks the plurality of views to the consumers. So, Coverage of political events of any nature should be permitted.

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,

Under the copy right Act, 1957, the term of copy right for “broadcast reproduction right” shall be restricted to 25 years from the next new year date to that of the date of transmission of the said program. Further, the practice of issuing copy right licence for serials and reality shows to be dubbed in other languages and broadcast the same is a prevailing phenomenon.

Hence, placing a restriction on such transmission would be curbing the rights provided under the copy right act, 1957.

So, the restriction shall be subject to compliance with copyright act (In fact, this is already provided in the extant Programme Code.)

2.1.4 International, National and State level sport events/tournament/ games like IPL, Ranji trophy, etc.

The above events can be permitted subject to copy right compliance.

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.

The above may be permitted, subject to strict adherence to the Programme & Advertisement Code. Further, as many of these services like Movie on Demand etc. will directly benefit the MSO/LCO in terms of revenue/profits, reasonable fee must be charged by the government as a percentage of such revenues (apart from one time registration fee).

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

Once the MSO's/LCO's carry their own content, they are already acting as 'broadcasters', of course, within a limited area and to limited subscribers. Transmitting signals through cables is already treated as 'broadcasting', as per the very definition given by TRAI.

Once the operation and coverage of MSO's/LCO's are restricted to a limited geographical area, preferably within a district, there is no question of them trespassing into the domain of regular TV broadcaster. As such, the review is not necessary.

As far as the content transmitted by other DPO's such as DTH etc. which cover the whole India or a substantial geographical area, they definitely trespass into the domain

of broadcasters and as such already prohibited from such activity as per applicable guidelines.

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?

As stated in the preliminary submissions, the reference of MIB dated 17-01-2014 and the present consultation shall be restricted to bringing in a regulatory regime to the ground based local channels being transmitted by MSO's/LCO's.

The present legal framework as envisaged in "The Cable TV Networks (Regulation) Act, 1995" and the rules framed therein would allow any person not limited to an individual, proprietary firm, Partnership firm, LLP or a company under Companies Act to obtain Registration as an MSO/LCO and envisage them to transmit Local Content & Services (LCS) under section 7(6).

So, presently, the MSO/LCO need not be necessarily a Company and the same can be continued. However, in a later event where the Cable Act is amended to issue MSO/LCO registration only to companies, in such an event, MSO/LCO may also be compelled to be a Company.

5. Views, if any, on FDI limits?

Considering the low investment required to start a local channel, there shall not be any FDI allowed in Local Content & Services (LCS).

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

"The Cable TV Networks (Regulation) Act, 1995" and the rules framed thereunder have not mandated any minimum net-worth requirement for registration of an MSO/LCO. The same can be continued.

However, in a later event where minimum net-worth is prescribed for any MSO/LCO for registration under the said Act, such minimum net-worth can be Rs. 3 lakhs.

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

To ensure the credentials of persons operating MSO/LCO and to fix responsibility, especially for violations of programme and advertisement code, security clearance at the district level (*by office of authorized officer/SP*) may be prescribed. However, it should be ensured that the process is online, transparent and time-bound unlike the present process for satellite channels by MIB which is manual, non-transparent and takes months/years.

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?

The failure to put in place an online mechanism for registration till date reflects the ineffectiveness and non-transparent attitude of Ministry of I&B. If such a move is indeed contemplated, it is really a great and welcome move.

The validity can be for 10 years subject to compliance with licensing terms and conditions including compliance with programme and advertisement codes.

At present the MSO/LCO is not charged any annual fee or any one time fee. Hence, the Ministry may charge a onetime processing fee of Rs. 50,000/- for LCO and Rs. 3,00,000 for an MSO. Further, 10% of AGR shall be charged as annual fee.

9. What is your proposal for renewal of permission?

Renewal may be done for a like term of the registration subject to compliance with licensing terms and conditions including compliance with programme and advertisement codes.

Penalties for violation of terms and conditions especially, for violation of programme and advertisement codes should be in a graded manner unlike the penal provisions contained in the uplinking and downlinking guidelines for satellite channels which start with "*prohibition of transmission upto 30 days*" in the first instance. These sort of penalties are only on paper and it is an open secret that MIB rarely imposes those penalties and the erring channels are getting away with advisories and warnings even for serious violations.

The penalties should be as follows (this is suggested for content and services offered by MSO's & LCO's only and not for other DPO's):

1. Financial penalties ranging from Rs. 10,000 to 5,00,000
2. Temporary suspension of Local Content & Services (LCS) offered by MSO/LCO for specified days (one week in the first instance, one month for second violation etc.).
3. 1 & 2 together in deserving cases
4. Cancellation of registration of MSO/LCO in case of serious violations and for violations for 5 times or more ('five slaps' clause)

Above actions should be taken based on the gravity of violation, by authorized officers and any such action shall be based on the recommendations of a district-level autonomous committee comprising of people representing broad cross-section of the society. There shall not be any place for bureaucratic discretion for authorized officer.

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

The geographical limit can be a district.

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;

Yes, the registration shall be non-transferrable. But, the approving authority can be the authorized officer under CTN Act and not 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;

Re-transmission may be permitted subject to copy right compliance and mutual contracts, if any. However, it should be specified that whoever re-transmits the content, they will be liable for any violation of programme & advertisement code.

12.3. Compliance with the Programme & Advertisement Code and TRAI's Regulations pertaining to QoS and complaint redressal.

The sad fact remains that both local channels and satellite TV channels are indulging in flagrant violations of programme and advertisement code. The MIB and authorized officers are playing a spectator role with utter disregard to viewers' interests.

The so-called self- regulation by private broadcasters is a plain bogus, not to speak of the local cable operators.

TRAI's Regulations pertaining to QoS and complaint redressal (e.g., on DTH) are only on paper. Beyond second-level 'nodal officer' who is again a representative of the company, the customer faces a dead-end. He has to go through the rigours of consumer courts or file writ petition in High Court which are costly and cumbersome. Neither TRAI nor the government have the genuine interest in protecting interests of consumers and to end the tyranny of corporate entities.

Local Content & Services (LCS) should be subject to strict compliance of extant Programme and Advertisement Code and other Regulations of TRAI. The penalties should be graded and as mentioned in point no. 9 above.

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

Presently, DTH, HITS or IPTV operators are prohibited from carrying their own content/channels except for value added services for which specific licence is needed

from competent authority, who may ensure the content/services offered by the said DPO's don't trespass into the domain of registered broadcasters.

The same position needs to be continued and Local Content & Services (LCS) can be offered only by MSO/LCO's.

If other DPO's want to carry their own channels (other than VAS), they can get registered under uplinking and downlinking guidelines, of course subject to applicable cross-media restrictions.

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?

The permission of a FM channel is limited to broadcast of audio signals in a main carrier on the allotted frequency within the permitted city. The definition clause of "Broadcast service" under article 1.4 read with other definitions of GOPA of FM channel would go to say that FM radio is allowed to propagate only through electromagnetic waves and not through any other medium.

Further, "Programme" as per Section 2 (g) of CTN Act include only a television broadcast as a programme and there is no space for a Radio broadcast.

As such, transmitting FM radio content through internet and through DTH platform (*some operators are already doing this, thanks to the anarchy and lack of oversight by MIB*) is indeed illegal and also amounts to copy right violation.

Hence, FM radio channels shall not be allowed to be networked with MSO/LCO or any other DPO, unless there is a policy change in this regard by the government.

15. Please suggest the mechanism for monitoring of PS channel.

Constitution of a mechanism like EMMC at local/district level is not possible. The alternative can be to inform and empower viewers through regular and frequent announcements and scrolls in local language regarding complaint redressal mechanism.

A district level committee should be constituted representing broad cross-section of society which should look into the complaints. This committee should be independent of authorized officer and shall be given statutory recognition with full autonomy (*unlike the present 'non-existing' and 'on paper' committees created by MIB by way of an 'order' in 2010.*) Contact details of such committees should be widely publicized in print and electronic media by the MSO's/LCO's.

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.

No, the penalties should be graded and as mentioned in point no. 9 above. International best practices shall be studied in this regard.

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?

Services/facilities incidental or ancillary to 'broadcasting' such as Electronic Programme Guide (EPG), numbering of channels, frequency in changing the channel numbers and manner of dissemination of such change, options exercisable through remote control device by programming of STB, giving due prominence to public service channels (DD) etc. provided by DPO's should be treated as part of Local Content & Services (LCS) and separate provisions shall be in place to regulate such services/facilities.

MWI already represented on this issue to TRAI and the relevant letter is enclosed as Annexure-B.

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?

A time limit of 6 months may be given for registration under new regime.

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.

- (i) Points raised in preliminary submissions
- (ii) Need to regulate Services/facilities incidental or ancillary to 'broadcasting' such as Electronic Programme Guide (EPG) as mentioned in point no. 17
- (iii) TRAI, in its consultation paper had not mentioned about any international best practices in relation to the regulation of content and services by various kinds of DPO's. TRAI should issue a supplementary consultation paper detailing such global practices so that stakeholders can submit their informed views.

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Annexure-B

Media Watch-India

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<u>President:</u> Prakash Singh, IPS (Retd.) Formerly DG, BSF	<u>Vice-President:</u> EdaraGopi Chand, Gandhian & Social Activist	<u>Gen. Secretary:</u> CVL NarsimhaRao, Advocate & Film Artist.
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Dt. 21-1-2014

To

Sri Rahul Khullar, Chairman,

Telecom Regulatory Authority of India,

Jawaharlal Nehru Marg, New Delhi - 110 002.

Sir,

***Sub.: Complaint against DTH Service Providers indulging in gross violation of Advertisement Code -
Need for issuing specific QoS Regulations by TRAI - reg.***

Please refer to the attached complaint addressed to Joint Secretary (Broadcasting), Ministry of Information and Broadcasting & Convenor, Inter-Ministerial Committee on violations of Programme & Advt. Codes by Private satellite TV Channels & DTH platforms, regarding DTH service providers indulging in gross violation of provisions of statutory Advertisement Code in utter disregard to the interests of the TV consumers.

As evident from the observations made therein based on the case study done by MWI in respect of Airtel Digital DTH service, the DTH Service Providers are

violating of rule 7(10) & 7(11) of the Cable Networks Rules, 1994 and indulging in various *modus operandi* with a result of adversely affecting the viewing experience of the TV audience.

TRAI in para 5 of explanatory memorandum to *Standards of Quality of Service (Duration of Advertisements in Television Channels) (Amendment) Regulations, 2013* stated thus: “The advertisements carried on by the broadcaster in their programme is no doubt a quality of service issue as they interfere with the uninterrupted broadcast of a programme and intrusion of advertisements during the telecast of a programme adversely affects the viewing experience of the consumer...TRAI has been entrusted for laying down the standards of quality of service to be provided by the service providers and ensure the quality of service to the consumers. In this endeavour the Authority has observed that the duration of advertisements is closely related to the quality of viewing experience of the consumers. The quality of viewing experience of the consumers is akin to the quality of service provided by the service providers to the consumers. The Authority has noted that the duration and **format of advertisements, being carried in TV channels are generally, not in accordance with the provisions of the advertising code as prescribed in the CTNR, 1994.**

However, the sub-regulations 5 & 6 of regulation 3 of *Standards of Quality of Service (Duration of Advertisements in Television Channels) Regulations, 2012* which sought to regulate the 'format' and 'audio levels' of advertisements were altogether omitted by TRAI. Further, the regulations are made applicable only to private satellite channels uplinked/downlinked from India and not to the Cable Networks and DTH service providers though the statutory advertisement code is equally applicable to both such service providers. (MWI already moved TDSAT against this unreasonable omission by TRAI and is about to file writ petition shortly in the Delhi High Court.)

Further, no provisions are made as part of Direct to Home Broadcasting Services (Standards of Quality of Service and Redressal of Grievances) Regulations, 2007 to regulate (i) the duration (ii) formats (iii) audio levels of ads in the channels transmitted by the DTH service providers & (iv) size and appearance of various on-screen elements displayed by the DTH operator during provision of service (e.g., *Electronic Programme Guide, DTH Brand logo, various menu options navigable through Remote Control etc.*)

Thus, due to the inaction of Ministry of I&B on violations of advertisement code and in the absence of specific QoS regulations by TRAI, the DTH operators are indulging in various unfair practices that are detrimental to the viewing experience of millions of TV audience availing broadcast services through DTH mode.

In the light of above, it is prayed that:

(i) sub-regulations 5 & 6 of regulation 3 of original regulation (*Standards of Quality of Service (Duration of Advertisements in Television Channels) Regulations, 2012*) be revived immediately in the interests of audience.

(ii) *Standards of Quality of Service (Duration of Advertisements in Television Channels) Regulations, 2012* be made applicable to the channels operated by Cable Networks and DTH Service Providers also or new set of regulations be included as part of *Direct to Home Broadcasting Services (Standards of Quality of Service and Redressal of Grievances) Regulations, 2007* to regulate the duration, formats and audio levels of ads in the channels transmitted by the DTH service providers.

(iii) new QoS regulations be issued as part of *Direct to Home Broadcasting Services (Standards of Quality of Service and Redressal of Grievances) Regulations, 2007* to regulate the size and appearance of various on-screen elements displayed by the DTH operator during provision of service (e.g., *Electronic Programme Guide, DTH Brand logo, menu options navigable through Remote Control etc.*)

If TRAI doesn't initiate action based on above prayer within fifteen days from the date of receipt of this representation, 'MediaWatch-India' will be constrained to approach the court of law for necessary relief in public interest.

Thanking you sir.

Yours sincerely,

EdaraGopi Chand,
Vice-President, 'MediaWatch-India',
11-7-17, Near SBI Colony, Ramireddy Pet,
Narasaraopet - 522601, Andhra Pradesh.
mediawatchindia123@gmail.com

Copy to:

Sri BimalJulka,

Secretary, Ministry of Information and Broadcasting,

Room No. 655, SastriBhavan, New Delhi.

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By CPGRAMS

Dt. 21-1-2014

To

Smt. SupriyaSahu,
Jt. Secretary & Convenor,
Inter-Ministerial Committee on violations of Programme & Advt. Codes by Private
TV Channels & DTH services, Ministry of Information and Broadcasting, Room
No. 659, Sastri Bhavan, New Delhi.

Madam,

**Sub.: Complaint against DTH Service Providers indulging in gross violation of
Advertisement Code - reg.**

Most of the DTH service providers are indulging in gross violation of provisions of statutory Advertisement Code in utter disregard to the interests of the TV consumers. This complaint is based on MWI's case study of the DTH service provided by Airtel Digital. Following are some of the glaring manifestations of violation of the advertisement code:

1. As per Advertising Code - rule 7(10) of the Cable Networks Rules, 1994, "*All advertisement should be clearly distinguishable from the programme and should not in any manner interfere with the programme viz., use of lower part of screen to carry captions, static or moving alongside the programme.*" Clause 5.1 under Article 5 in Terms and Conditions for the license agreement between DTH operator & Ministry of I&B stipulates, "*The Licensee shall ensure adherence to the Programme Code (PC) and Advertisement Code (AC), laid down by the Ministry of Information & Broadcasting from time to time.*" Further, as per Clause 10.1 in Article 10, "*The DTH facility shall not*

be used for other modes of communication, including voice, fax, data, communication, Internet, etc. unless specific license for these value-added services has been obtained from the competent authority.”

However, the following clearly prove that M/s Airtel is in gross violation of rule 7(10) of the Cable Networks Rules, 1994:

- A. When the customer is switching between channels, the Electronic Programme Guide (EPG) that appears on the lower portion of the screen is almost half the size of the TV screen blocking/interfering with the main programme. The EPG is loaded with commercial ads/brand logos on the right side. Another Airtel self-promotional message is inserted on the top of EPG which further blocks the viewable area of the TV screen. The customer has to bear the EPG which remains on the screen for a period of seven seconds. With this, it is highly difficult to watch the programme/content adversely affecting the viewing experience. When the customer switches between channels, he/she will be trying to decide which channel/programme to watch. If the DTH service provider blocks half of the screen with EPG loaded with ads, how the customer is able to exercise his/her choice? ***(Please see first screenshot in Annexure-I attached.)***
- B. While viewing a programme, the Electronic Programme Guide (EPG) loaded with ads appears automatically (without any initiation by the customer) at specified intervals blocking/interfering with the programme. This is again to make the customer to forcibly watch the commercial ads and self-promotional messages of the DTH service provider. ***(Please see first screenshot in Annexure-I attached.)***
- C. While watching any programme, on pressing any of the buttons viz., MyRec, fav, menu, movies etc. on Airtel remote control, the consumer is made to bear the unsolicited commercial ads and self-promotional messages along with the desired menu options on the screen. These ads are occupying more space than the desired menu options blocking most of the viewable part of TV screen thus interfering with the ongoing programme. This is but violation of clause 5.1 by the DTH service provider read with rule 7(10) of Cable Networks Rules, 1994. ***(Relevant screenshots are attached as Annexure-I.)***
- D. M/s Airtel is transmitting channels like ‘FREE MOVIES’ (*‘powered’ by Colours Channel etc.*) with continuous part-screen commercial ads & self-promotional messages by way of permanent static captions/bars on the side and lower portions of the screen including a message to pay some charges if the customer wants to see the movie in full screen. ***(Screenshot attached as Annexure-II.)***

- E.** M/s Airtel is transmitting 'notifications' frequently by way of an yellow 'mail box' icon that appears on the top middle of the screen. These so-called notifications are indeed promotional messages from Airtel advertising their products/offers. There is no option to unsubscribe from such distracting 'notifications' and the customer is forced to open it and acknowledge the message in order to get rid of the mail box icon.***(Relevant screenshots are attached as Annexure-III.)***
- F.** M/s Airtel is displaying its red coloured logo, 'AIRTEL' on the corner of TV screen as a distinct image, most often bigger than the channel logo. This is another potential distracting element in the screen interfering with the main programme affecting the customer's viewing experience. The DTH service provider logo, which shall at best be displayed occasionally as a small image by way of WATERMARK (for identification purpose) is being displayed as disproportionately large/coloured logo and used as yet another marketing strategy to promote the brand of M/s Airtel. Some DTH service providers are displaying an additional watermark of logo apart from the regular distinct image of logo.
2. As per advertising code (rule 7(11) of the Cable Networks Rules, 1994), "*No programme shall carry advertisements exceeding twelve minutes per hour, which may include up to ten minutes per hour of commercial advertisements, and up to two minutes per hour of the channel's self-promotional programmes.*" There is no provision in the present policy allowing any TV channel or Cable Network or DTH or IPTV service provider to exclusively air commercial and self-promotion advertisements without any real programme content.

However, Airtel is carrying 24*7 ad & self-promotion channels like 'AIRTEL HOME', 'HOME CHANNEL', 'RECHARGE INFORMATION' etc. Customers are made to forcibly watch the unsolicited ads as as part of 'HOME CHANNEL' as soon as they switch on the TV/STB. The advertisements include surrogate advertisements of liquor, promotional trailers of Hollywood films some of which may not be suitable for unrestricted public exhibition. Thus, M/s Airtel has institutionalized the violation of rule 7(11) of the Cable Networks Rules, 1994 by way of 24*7 ad channels.

In view of above, it is prayed before the competent authority in the Ministry of I&B:

1. To issue show cause notice immediately to M/s Airtel Digital DTH service provider for gross violation of statutory Advertisement Code viz., rule 7(10) & 7(11) of the Cable

Networks Rules, 1994 thereby violating Article 5 of Terms and Conditions for the DTH license agreement between M/s Airtel & Ministry of I&B.

2. To issue an advisory to all DTH service providers not to indulge in practices like those brought out in the present complaint which constitute violation of statutory advertisement code.
3. To refer this complaint to Electronic Media Monitoring Centre (EMMC) with necessary direction to monitor and forward periodic reports to MIB on similar violations by all DTH service providers.
4. To refer this complaint to Telecom Regulatory Authority of India (TRAI) to issue necessary QoS regulations as part of [The Direct to Home Broadcasting Services \(Standards of Quality of Service and Redressal of Grievances\) Regulations, 2007 \(8 of 2007\)](#) in the interests of consumers.

If no action is initiated based on this complaint within fifteen days from the date of receipt of this complaint, MWI will be constrained to approach the Court of Law in public interest against the inaction of the competent authority in the Ministry of I&B.

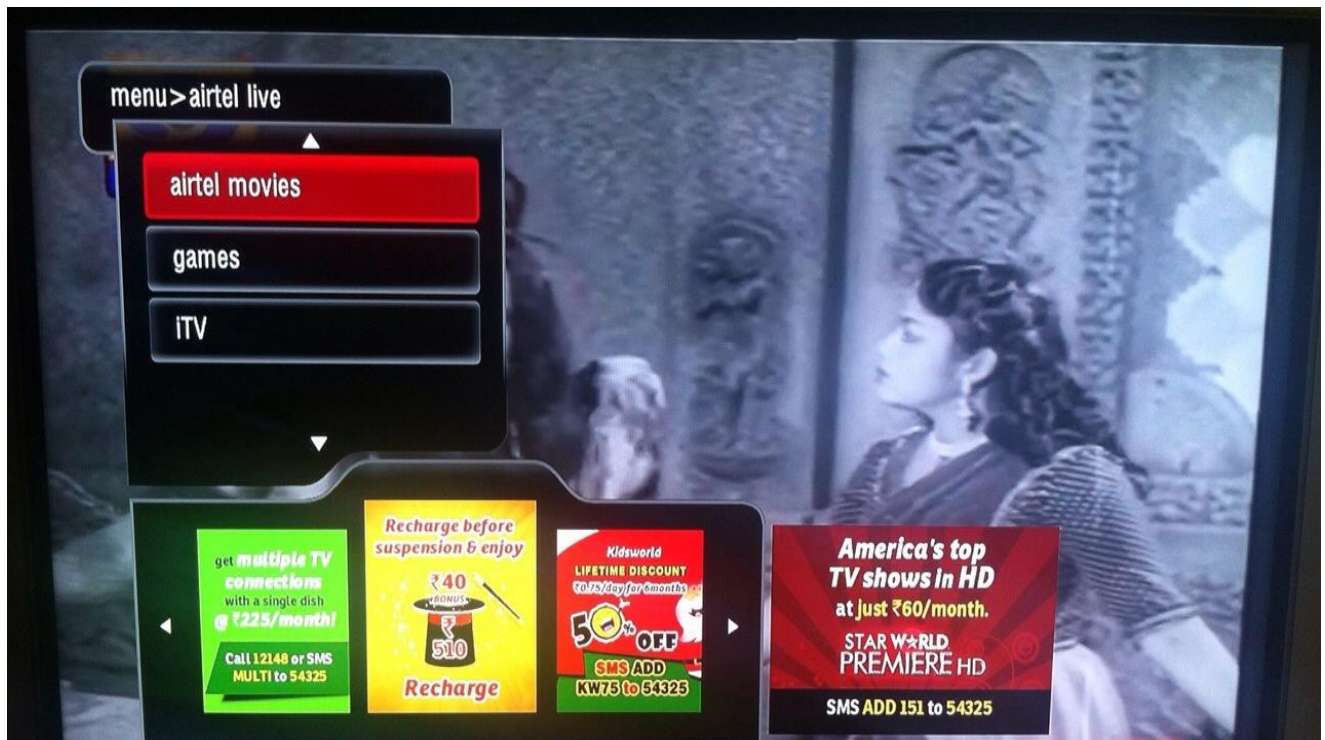
Thanking you.

Yours sincerely,
EdaraGopi Chand,
Vice-President, 'MediaWatch-India',
11-7-17, Near SBI Colony, Ramireddy Pet,
Narasaraopet - 522601, Andhra Pradesh.
www.mediawatchindia.org

Enclosures: As above

Annexure-I






Annexure-II

The advertisement features a central scene from the movie 'Ethir Neechal' showing a man in a blue shirt and a woman in a pink shirt in a clothing store. The scene is framed by a black border. To the left of the scene is a vertical banner with the movie title 'Ethir Neechal' in Tamil script at the top, followed by a star icon and the text 'VIJAY HITZ'. Below this, it says 'To get Super HIT Tamil Movies FREE for 3 days' and 'SMS SVFREE to 54325'. At the bottom left of the banner is a small image of a couple. To the right of the scene, the text 'Powered by colors' is visible in the top right corner, and the 'airtel' logo is in the bottom right corner. Below the scene, the text reads 'Like the movie? Watch it in full screen @ Rs.30, press [green square] now'. At the bottom, it says 'Ethir Neechal and more HIT Tamil Movies' in red, with small images of the movie's cast on the right. At the very bottom, in small text, it says 'T&C, chargeable at Rs.35 per month thereafter, at a Lock-in of 30 days'.

Powered by colors

airtel

Like the movie?
Watch it in full screen @ Rs.30, press  now

Ethir Neechal and more HIT Tamil Movies

T&C, chargeable at Rs.35 per month thereafter, at a Lock-in of 30 days

Annexure-III

