

ONLY BY EMAIL < advbcs-2@traf.gov.in >, <jtadv-bcs@traf.gov.in>

November 22, 2024

Shri Deepak Sharma

Advisor (B&CS)

Telecom Regulatory Authority of India

4th, 5th, 6th & 7th Floor, Tower-F,

World Trade Centre, Nauroji Nagar,

New Delhi: 110029

Dear Sir,

Re: Consultation Paper on Regulatory framework for Ground-based Broadcasters

Attached please find comments of NBDA on the TRAI Consultation Paper dated 18.10.2024 on Regulatory framework for Ground-based Broadcasters.

Thanking you,

Yours Faithfully,



Annie Joseph
Secretary General

Encl: As above

CC: Mr. Rajat Sharma, President NBDA

NBDA's Comments on the TRAI Consultation Paper dated 18.10.2024 on Regulatory framework for Ground-Based Broadcasters

News Broadcasters and Digital Association ("NBDA") is an association of 24x7 television broadcasters and digital media entities/platforms who broadcast and/or publish news and current affairs programmes and content. NBDA represents several important and leading national and regional private news and current affairs broadcasters who run news channels and digital platforms in Hindi, English and Regional languages.

NBDA welcomes the opportunity given to it by Telecom Regulatory Authority of India ("TRAI") for providing comments on the Consultation Paper dated 18th October 2024 (CP) relating to Regulatory framework for Ground-Based Broadcasters.

NBDA submits that the emergence of technology enabling innovative forms of broadcast transmission and retransmission is undoubtedly a positive development that should be encouraged. In this light, the proposal to permit ground-based broadcasters (GBBs) and formulate a structured policy framework is commendable and represents a progressive step. However, to ensure fairness and cohesion across the broadcasting ecosystem, it is crucial to address key regulatory and level playing field concerns that arise with the entry of GBBs into the landscape.

At the outset, it is respectfully submitted that the mandate of regulating the Broadcasting sector and formulating the Proposed Regulations lies with the Ministry of Information & Broadcasting ("**MIB**").

This is evident from the Government of India (Allocation of Business) Rules, 1961.¹ As per the said Rules, the MIB is concerned with all matters relating to "broadcasting policy and administration", in as much as it includes:

"1. All matters relating to radio and television broadcasting within the Union including regulation of the use of All India Radio and Doordarshan by recognised national and regional political parties during elections to the Lok Sabha and State Assemblies and procedure to be followed by the official electronic media during periods of national mourning on the demise of a high dignitary.

2. The enunciation and implementation of the law relating to radio and television broadcasting in India by private Indian companies or Indian nationals

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¹ Allocation of Business Rules, 1961
https://cabsec.gov.in/writereaddata/allocationbusinessrule/completeaobrules/english/1_Upload_1800.pdf

5. Cable Television Networks (Regulation) Act, 1995 (7 of 1995)”
(emphasis supplied)

The said Rules were further amended vide Notification dated 28.07.2023, as per which Entry 22A was added, providing MIB the responsibility to regulate audio-visual programs and films made available by online content providers and publishers.²

Thus, anything falling from this CP, in the form of consultation, must not result in regulation by TRAI since TRAI does not have jurisdiction to regulate the broadcasting and news sectors. Even the letter from MIB to TRAI cannot be construed as an invitation for regulation.

Ensuring a Level Playing Field: Addressing Disparity in Regulation

GBBs offer the potential to diversify the broadcasting landscape, permitting them without well-defined regulatory structures would disrupt competitive fairness. Satellite broadcasters already operate under stringent regulatory standards encompassing permissions, content guidelines, and operational transparency. Allowing GBBs to function under relaxed or fragmented regulations would create a significant regulatory disparity, giving GBBs an undue advantage.

To illustrate, satellite broadcasters invest significantly in compliance to meet Ministry of Information and Broadcasting (MIB) standards on content quality and production. GBBs, if not regulated like satellite broadcasters, could operate at reduced cost and effort, creating non-level playing field conditions that would disadvantage satellite broadcasters. Therefore, it is critical to apply uniform regulatory standards.

Fragmenting regulations by establishing separate standards for GBBs would add complexity and could impair content quality and compliance. Content produced by GBBs should be subject to the same stringent oversight as satellite broadcasters .

Presently, satellite broadcasters are subjected to stringent licensing, operational and content regulations under the Cable Television Network (Regulation) Act, 1995 (“**CTN Act**”); Programme and Advertisement Codes as well as Guidelines for Uplinking and Downlinking of Satellite Television Channels in India, 2022.

Any regulation of GBBs must subject them to the same stringent standards as television broadcasters, especially if they are going to compete in the same news and entertainment market. Any other approach would entail an undue advantage on GBBs – resulting in disparity in regulation.

² Notification No. S.O.3412(E) dated 28.07.2023 issued by Cabinet Secretariat, Government of India, https://cabsec.gov.in/writereaddata/allocationbusinessrule/amendment/english/1_Upload_3735.pdf

Satellite Broadcasters have to ensure various compliances under the existing regime and also, the content being broadcast is required to meet several standards as provided under the CTN Act, Uplinking and Downlinking, and other guidelines. Even the operations of these broadcasters and the standard of equipment to be used are required to conform to the stated standards. In fact, in case of non-compliance, satellite broadcasters are met with stringent penalties, either in the form of imprisonment or cancellation of their permission.

In such a scenario, if GBBs are allowed to operate under a lenient and flexible framework, then that would result in the creation of a disparate playing field – which would not only undermine the current broadcasting ecosystem but also adversely impact the market equilibrium.

Impact on Content Quality

GBBs, due to their limited geographic reach, inherently create a fragmented media environment. While satellite broadcasters can reach a national or even global audience, GBBs' regional focus risks creating isolated content "bubbles". For example, regional broadcasting bubbles can inadvertently foster localized bias, promoting views that may not align with broader public interest.

Moreover, allowing GBBs without sufficient technical and production standards risks compromising public perception of broadcast quality in India. Unlike satellite broadcasters, who invest significantly in high-quality content and production, standalone GBBs could introduce lower-quality programming that does not meet national standards. The audience may begin to perceive Indian broadcasting as inconsistent, impacting the credibility of the industry.

Economic Impact and Financial Viability Concerns

The broadcasting industry in India is largely reliant on advertising revenue and also to some extent on subscription revenue. Satellite broadcasters, whose reach spans national and international audiences, have established robust business models around these revenue streams. However, the entry of standalone GBBs, with limited geographic reach but similar advertising objectives, risks diluting ad revenue streams across platforms, which could destabilize the market and drive-up costs for consumers.

Safeguarding Satellite Broadcasters' Investment in Technology

GBB technology, when integrated as an auxiliary platform for satellite broadcasters, offers substantial benefits. It can provide enhanced transmission quality, reduce costs, and serve as a backup in cases of satellite signal failures – particularly valuable during natural disasters or emergencies. Moreover, satellite broadcasters' use of GBB technology could offer city-centric and geographically-targeted content while retaining the broader regulatory oversight and content standards that satellite platforms already adhere to.

Thus, a policy framework that allows only satellite broadcasters who have been granted permission for uplinking and downlinking to utilize GBB technology as an alternative transmission method would lead to preserving the integrity of the broadcasting ecosystem, enhancing flexibility for established broadcasters while limiting market fragmentation.

Stringent Conditions for Standalone GBBs

In the event that standalone GBBs are permitted, it is essential that they operate under terms that match or exceed those applied to satellite broadcasters. Suggested conditions include:

Compliance Parity: Standalone GBBs should adhere to identical content, and operational standards as satellite broadcasters, ensuring they meet the same quality and integrity thresholds. Any deviation from these standards should result in disqualification from operating as GBBs.

Mandatory Compliance and Content Reporting: Standalone GBBs should submit regular compliance reports on content quality, technical standards, and adherence to security requirements. This would ensure that the content remains suitable for public consumption.

Content Audits: GBBs should undertake periodic quarterly audits to ensure that its content meets standards for accuracy and objectivity.

The regulatory framework as suggested above, would enable the technological advantages of GBBs without compromising the fairness, quality, and economic stability of India's broadcasting ecosystem.

An Equitable and Forward-Looking Framework

That it is of paramount importance that GBBs are covered under the present regulatory regime and subjected to similar content, permissions, and operational standards as satellite broadcasters. If the threshold for GBBs is lowered, then it would impact the quality of the content broadcast.

The present regulatory framework results in broadcast of only high-quality content that aligns with public interest. If GBBs are given a free hand and given leniency in content audit, then such standards could be heavily compromised and increase the competitive pressure on satellite broadcasters.

That a divergent regulatory framework among the broadcasters is not required since the present regime can be extended to also regulate GBBs. The CTN Act and Guidelines for Uplinking and Downlinking already cover all the areas including, procedure for granting permission or authorization; content regulation; necessary approvals and clearances; disclosure norms; revenue controls, etc. Therefore, these regulations should simply be expanded to make provisions for GBBs.

Even otherwise, if the MIB concludes that fresh guidelines for GBBs must be framed, then it must ensure that the standard of regulation shall be synonymous with the present applicable standards, with no variations. This would ensure a level playing field and confer no undue entry advantages upon GBBs. Further, while framing these regulations, a balance must be drawn to safeguard the interests of satellite broadcasters.

This is especially important because the CP proposes definitions of terms that are distinct from extant law. For instance, the CP provides a draft definition of broadcasters as hereinunder:

“broadcaster” means a person or a group of persons, or body corporate, or any organization or body who, after having obtained in its name, authorization from the Central Government for its channels, is providing programming services”

The CTN Act already provides a definition for “broadcaster” – that sufficiently cover all classes of broadcasters, and having separate definitions for the same term will only create regulatory uncertainty. This further raises challenges about the need for separate legislation for GBBs.

Notably, even under the Guidelines for Regulation of Platform Services offered by MSOs issued on 30.11.2024, the MIB has only defined “Platform Services” and provided no new/separate definition for broadcasters. In fact, the said guidelines also mandate the compliance of Programming and Advertisement Codes prescribed under the CTN Act, by Platform Services.

While the technological advancement of GBBs offers intriguing possibilities, the most sustainable approach would be to position GBB technology as an auxiliary tool exclusively for satellite broadcasters. This would allow satellite broadcasters to leverage GBB benefits for enhanced reach, disaster resilience, and geographic targeting, all while maintaining a cohesive regulatory framework. Alternatively, if standalone GBBs are permitted, they must operate under similar terms as satellite broadcasters operate to ensure that they neither disrupt established market dynamics nor lower broadcasting standards.

This balanced framework would enable India to harness the potential of GBB technology while safeguarding the interests of satellite broadcasters and upholding the standards of Indian broadcasting.

At the same time, it is suggested that there should be levelling down of regulations for satellite-based broadcasters while moving towards de-regulation of the entire sector which will fuel much needed growth for all stakeholders and give a much-needed push to the broadcasting industry.

Issue-Wise Responses

Q1. For the purpose of regulatory framework for ground-based broadcasters, do you agree with the draft definition for broadcaster, programme, Satellite-based broadcasting and Ground based broadcasting given below? If not, please suggest alternative definitions. Please elaborate your response with full justification.

“broadcaster” means a person or a group of persons, or body corporate, or any organization or body who, after having obtained, in its name, authorization from the Central Government for its channels, is providing programming services;”

“programme” means any television broadcast and includes i) exhibition of films, features, dramas, advertisement and serials; ii) News & current affairs, Non-news & current affairs, educational content iii) any audio or visual or audio-visual live performance or presentation, and the expression “programming service” shall be construed accordingly;”

“Satellite-based Broadcasting” means providing programming services using satellite-based communication medium for delivering channels to the distributors of television channels.”

“Ground-Based Broadcasting” means providing programming services using terrestrial communication medium for delivering channels to the distributors of television channels.”

NBDA Comment:

- a. That in so far as definitions of “broadcasters” and “programmes” are concerned, these terms are defined by the CTN Act and Rules 1994 and therefore, the definitions as mentioned in the Act/Rules should not be modified.

That as far as the definition of “ground-based broadcasting” is concerned, it is submitted that the word “terrestrial” has been incorrectly used in the proposed definition of “ground-based broadcasters” in the CP, since terrestrial transmission is essentially transmission of signals over-the-air through terrestrial frequency bands and not by use of fibre, cloud, etc. Therefore using “terrestrial” would exclude transmission to distributors by other means, defeating the objective of defining ground-based broadcasters.

Q2. Should there be any distinction between ground-based broadcasters (GBB) and the satellite-based broadcasters (SBBs)? If so, what aspects/criteria should define such distinction? Please provide detailed justification for your response.

NBDA Comment:

That the distinction between GBBs and SBBs is limited to the means of transmission of television channels to distributors. It is reiterated that there should be parity in the regulatory framework for SBBs and GBBs since programming services are being provided to distributors by both. This would be best achieved by maintaining a light-touch regulatory framework, i.e. levelling down regulations for SBBs while moving towards deregulation across the sector.

Q3. Under the scope of GBBs, should all terrestrial transmission medium(s) (excluding satellite communication) such as fibre, broadband, cloud, etc be permitted? If not, please provide detailed justification for your response.

NBDA Comment:

That GBBs should be permitted to transmit television channels to the distributor by way of any medium (excluding satellite communication) as per their business model and technology being deployed.

It is reiterated that the word “terrestrial” has been incorrectly used here, since terrestrial transmission is essentially transmission of signals over-the-air through terrestrial frequency bands and not by use of fibre, cloud, etc.

Therefore using “terrestrial” would exclude transmission to distributors by other means, defeating the objective of defining GBBs.

Q4. Whether GBBs should be permitted/authorised to provide services in two separate categories i.e. (i) at State level, and (ii) at National level? If State level category for GBB are considered, then should such State level GBB may be allowed to obtain separate permissions/ authorisations in more than one State or there may be some ceiling on number of State-wise permissions/authorisations beyond which national level permission/authorisation must be obtained?

NBDA Comment:

That GBB should not be restricted on the basis of geography. In today’s era where the world has become a global village due to evolution of technologies which transmit data in real-time, there should be no geographical restrictions on the provision of services by GBBs. All permissions should allow the GBB to operate at a national or state level based on their business and technical capabilities. This will eliminate the need for multiple permissions, contributing to ease of doing business. This is also in line with the SBB wherein there is no such restriction to operate at State/regional level and the SBB is free to operate and arraign its business as per the market demand or potential.

Q5. An SBB pays a cumulative annual permission fee of Rs. 7 lakhs (Rs. 2 lakhs for uplinking + Rs. 5 lakhs for downlinking) per

channel. Whether GBB should be mandated to pay the same amount of annual fee of Rs. 7 lakh per channel? If not, what should be the annual fee for GBBs? Please provide detailed justification for your response.

NBDA Comment:

That all broadcasters, whether SBBs or GBBs should pay the same annual fee to maintain parity and ensure that only serious players operate as broadcasters.

Q6. Provisions for teleport/teleport hub exists in the uplinking/downlinking Guidelines 2022 for broadcaster using satellite communication. Whether similar provisions are required in relation to any hub/gateway that may be required to be set up for distribution of TV channels by GBBs? If so, what should be the corresponding provisions? Please elaborate with justification

NBDA Comment:

That no prescriptive provisions should be mandated regarding any technical requirements. It should be left to the discretion of the broadcaster including both GBB and SBB to decide according to their business model and availability of the best technology which is suited to the broadcaster according to the business model. Even otherwise, there is no concept of a hub/gateway which is required to be established for distribution of TV channels by GBB.

Q7. If a GBB is permitted to operate at State level, then what should the regulatory provisions for a GBB operating at State level which include: a) Processing Fee b) Annual Fee c) Net worth Requirement d) Performance Bank Guarantee (PBG) e) Other regulatory provisions

NBDA Comment:

That GBBs should be permitted to operate at a national level. Accordingly, there should be no separate regulatory provisions for state-level operations.

Requirements for Processing Fee, Annual Fee, Net Worth Requirement, Performance Bank Guarantee, and other regulatory provisions should be the same for all broadcasters whether SBB or GBB.

There is no difference between a national channel, regional channel, state channel or a city channel under SBB and accordingly there should be none for GBB.

Q8. Whether the extant Tariff Order, Interconnection Regulation and Quality of Service Regulation may be applied mutatis mutandis to GBB? Please explicitly indicate, if any modifications are required

in the said Tariff Order, Interconnection Regulation or Quality of service Regulation for GBBs.

NBDA Comment:

That GBBs should be subject only to a light-touch regulatory framework. To maintain parity, there should be levelling down regulations for SBBs while moving towards deregulation across the sector. Until such time as deregulation is achieved at all levels, the extant Tariff Order, Interconnection Regulation and Quality of Service Regulation should be made applicable to GBBs.

Q9. (a) The extant interconnection regulation provides for “Must Carry” and “Must Provide” regime. In case of GBB, whether the same regime should be made applicable? (b) Normally, the cost of bandwidth / any other additional cost involved should be borne by both the parties based on a mutual agreement. However, in case the broadcaster and DPO fail to reach an agreement on costs involved, then in such a situation, since the ‘Must carry’ provision is exercised by the broadcaster, therefore they should bear the cost of bandwidth between broadcasters and DPOs/ any additional cost and similarly, since the ‘Must provide’ provision is exercised by DPO, therefore DPO should bear bandwidth cost/ any additional cost involved. Do you agree with the above approach? If not, who should bear the cost in both the cases? Please provide detailed justification for your response.

NBDA Comment:

That TRAI regulations should apply in a similar way on GBB channels as applicable on SBB since GBB can be similar to the SBB in all respects except the transmission mode and any leniency may result in market distortion. Till such time, light touch regulations are introduced for the broadcasting sector, the same regime should be made applicable to GBBs and SBBs to maintain parity and level playing field.

Q10. In case a SBB wishes to switch to terrestrial-based communication medium to deliver its channels to DPOs, what should be the regulatory framework, in such a scenario?

NBDA Comment:

That in case an SBB wishes to switch to a non-satellite-based communication medium to deliver its television channels to DPOs, the process for operating a channel applicable to GBBs should apply to such SBBs as well.

Q11. In case a GBB wishes to switch to satellite-based communication medium to deliver its channels to DPOs, what should be the regulatory framework, in such a scenario?

NBDA Comment:

That in case a GBB wishes to switch to satellite-based communication medium to deliver its television channels to DPOs, the regulatory framework applicable to SBBs should apply to such GBBs as well, i.e., migration under the Uplinking & Downlinking Guidelines, etc. That the regulatory framework for SBBs and GBBs must be similar.

Q12. In case a broadcaster (SBB/GBB) wishes to use both satellite and terrestrial transmission technology to provide their channels to the DPOs, what should be the regulatory provisions for such broadcaster(s)? Should they require separate permissions and pay additional annual permission fees, processing fees, etc. for the above scenarios? Please provide detailed justification for your response.

NBDA Comment:

That to maintain parity between SBBs and GBBs, there should be levelling down regulations for SBBs while moving towards deregulation across the sector. Only a nominal processing fee should be charged for a broadcaster, whether SBB or GBB to operate a TV channel.

Until the sector is de-regulated and all broadcasters should be subject to only a light-touch regulatory framework, any broadcaster wishing to use both satellite and other transmission technology should be mandated to comply with the regulatory provisions for SBBs as laid down by MIB and the process for operating a channel for GBBs.

Q13. What should be the Regulatory Framework/Guidelines for Ground based broadcasters vis-à-vis 'Guidelines for Uplinking and Downlinking of Satellite Television Channels in India, 2022'? Please provide detailed justification for your response.

NBDA Comment:

That there should be distinct guidelines laid down by MIB for GBBs since the GBB's process of transmitting television channels to DPOs does not involve uplinking or downlinking. Guidelines for Uplinking and Downlinking already cover all the areas including, procedure for granting permission or authorization; content regulation; necessary approvals and clearances; disclosure norms; revenue controls. Thus, all relevant provisions of the Uplinking and Downlinking Guidelines should be made applicable to GBBs as they are applicable to SBBs. Provisions specific to satellite communications would be excluded. Such guidelines for GBBs could be made part of the Uplinking/Downlinking Guidelines by suitably amending the nomenclature of the guidelines.

Q14. Whether the existing provisions contained in the uplinking/downlinking guidelines 2022, excluding the provisions related to satellite communications, be made applicable to ground based broadcaster or do they need any modifications? In case you

are of the opinion that modifications are required in existing uplinking/downlinking guidelines 2022, then please provide your comments with reasons thereof on amendments [including any additional restriction(s)/condition(s)] required for Ground based broadcasters.

The stakeholders must provide their comments in the format specified in Table 1 explicitly indicating the existing clause, suggested amendment and/or additional condition/restriction and the reason/full justification for such amendment(s)/addition(s) for Ground based broadcasters. Table 1: Format for stakeholders' response on amendments required in existing uplinking/downlinking guidelines for Ground based broadcasters.

S no	Clause number of the existing uplinking/downlinking guidelines (1)	Provisions of the existing uplinking/downlinking guidelines (2)	Amendment/ additional provision(s) (conditions and/or restrictions) suggested by the stakeholder (3)	Reasons/ full justification for the proposed amendment (4)

(Note: In case additional provision(s) (conditions/restrictions) is/are proposed column (1) and (2) may be left blank)

NBDA Comment:

That it is recommended that the sector as a whole move towards de-regulation and a light-touch framework. Until such time, the relevant provisions of the Uplinking and Downlinking Guidelines, excluding those specific to satellite communications that govern SBBs should be made applicable to GBBs.

Q15. Stakeholders may also like to provide their comments on any other issue relevant to the present consultation along with justification.

NBDA Comment:

That the Ground Based (GB) channels are different from Platform Service channels of the DPOs and are akin to the Satellite channels.

At least for the initial period of few years say 3 years, GB channels should be separately identified so that the viewers are aware about the new kind of offering of the channels to protect consumer interest. Further, till such time that the GB channels actually come on par with the Satellite Based channels in all respects (except transmission mode), they should not be allowed to made part of the DPO pack.

The Guidelines for Uplinking and Downlinking should be amended to bring the Ground Based TV channels under its ambit. The nomenclature of the Guidelines could be suitably modified to include GB channels under a separate section dealing with GBBs.

DPOs should be debarred from running their own GB channels, as it will not only dilute the broadcasters' channels but will also dilute the Platform Service channel offerings. In fact, the DPOs could run Platform Service channels by naming them GB channels as the various restrictions of Platform Service will not apply. SBB should be allowed to offer their channel variant in GB. An SD channel of SBB should be allowed to be broadcast as HD channel in GBB or vice versa with minimum requirements after meeting the laid down criteria for SBB or GBB, as the case may be.

Temporary live up linking for both SBB and GBB should be allowed with prior intimation to MIB without any requirement for payment of fees.

The self-regulation principles should also be made applicable to GBBs.

The above submissions have been made on behalf of Members of NBDA.



Annie Joseph
Secretary General

22.11.2024