TRAI Consultation Paper Phase III – Comments Invited

Regulatory Issues –

Issue No.1 –

- **Additional Channels in the same city**

TRAI Note –

Availability of frequency has improved due to adoption of single frequency by players.
Government in a position to release more frequencies in the cities where it was not able to do in Phase II due to non availability of frequencies.

Government proposal –

Sr.No.	Category	Total No. of Channels offered	No. of Channels earmarked for education	No. of Channels to be offered to Private Broadcasters
1	A+	10 to 12	1	9 to 11
2	A	7	1	6
3	B	5	1	4
4	C	5	1	4
5	D	5	1	4

BECIL proposal –

Sr.No.	Category	Total No. of Channels offered	No. of Channels earmarked for education	No. of Channels to be offered to Private Broadcasters
1	A+	10 to 12	1	9 to 11
2	A	7	1	6
3	B	5	1	4
4	C	5	1	4
5	D	4	1	3

No Specific Comment on this issue.

Issue No.2 –

- **Multiple Ownership of Channels in a City**

TRAI Note –

FICCI Recommendation given in toto.

Contrary views also given that is multiple ownership of channels would result in monopoly and discourage competition in the FM Radio sector.

Our Comment –

FICCI Recommendation on this point is very exhaustive and should be reinforced. The contrary view that multiple ownership would result in monopoly in few hands can be countered that the present policy has prevented growth of the industry in the manner espoused by the 10th five year plan.

Issue No.3 –

- **FDI Limit**

FICCI Recommendation given but not in toto. The pass through of foreign investment applicable in the Insurance sector not mentioned which is given below -

"Passing-through of foreign investment of promoter company and/or majority shareholders has been made applicable only in the radio segment of entertainment industry. A similar pass-through of foreign investment is applicable in Insurance sector. But is applicable only if the foreign investor is same in the promoter and /or majority shareholder and the insurance company.

*The Insurance Regulatory Development Authority ("**IRDA**") vide Regulation 11 of the IRDA (Registration of Companies) Regulations, 2000 has taken the position that foreign institutional investor (FII) shareholding in the Indian promoter need not be taken into account for the purposes of calculating compliance with the FDI cap in the insurance company provided that the foreign promoter of the insurance company has not itself invested in the Indian promoter through the FII route. This has obviated any uncertainty (which exists in the FM radio sector) in relation to foreign investment in the insurance sector. We strongly urge the Ministry to give similar treatment of foreign investment in the FM radio-broadcasting sector."*

BECIL also supports the FICCI argument that FM Radio broadcasting requires heavy investment and the FDI limit requires to be enhances to attract more investment.

Contrary views also given that FM Radio is a powerful communication medium to common masses and exclusive control of such medium is not only desirable but necessary for effective control, integrity and security of the country.

Moreover, the other view stated is that FM Radio Broadcasters with 20% FDI cap have been successful to launch FM Radio services.

Our Comment –

The pass through of foreign investment applicable to the Insurance sector is required to be highlighted. Also the contrary view that Radio is a sensitive sector and hence there should be greater restrictions on foreign investment is not a valid argument. Television is a more powerful medium than Radio as it combines visual with audio and foreign investment in that sector especially news segment is 26% while the same in FM Radio is 20%. There should be an uniform FDI limit and for the faster growth of the Radio Industry, the FDI limit should be increased.

Issue No.4 –

- **Change in ownership of the permission to broadcast FM Radio**

TRAI Note –

FICCI Recommendation given in toto.

Contrary views also given that lock in period is necessary to ensure entry of only serious players and to avoid mass trading of licenses with commercial motives.

The middle path also suggested that dilution of promoters equity till 51% but only after commencement of Radio Broadcasting.

Our Comment –

The contention of FICCI that tradability of license will result in continuous operations as it provides an exit route to the license holder and counters the argument that it would result in wastage of frequency already committed by MIB to the original license holder.
The middle path suggested does not result in any change of ownership as the dilution is restricted till 51% and there is no change from the present position.

Issue No.5 –

- **Relaxation of fee structure for J&K and the North East**

TRAI Note –

There has been a very poor response to the Phase II bidding for the areas like J&K and the North East except Guwahati.
The primary reason for the same is the OTEF payable on a year on year basis.

Government Proposal –

Token OTEF for such areas or limited time relaxations in the yearly commitments of payment of the OTEF.

No Specific Comment on this issue.

Issue No.6 –

- **Networking of FM Radio programs across entities**

TRAI Note –

FICCI Recommendation given.

Our Comments –

Our views in favour of Networking have been supported by BECIL also. No valid counter argument against networking given in the TRAI paper.

Issue No.7 –

- **Allowing News and Current Affairs on FM Radio**

TRAI Note –

FICCI Recommendation given in toto. BECIL has also supported FICCI's views.

Contrary views also given that monitoring of the news and current affairs content is a huge challenge and since it has the potential to create major impact, it should not be permitted till effective monitoring mechanism is set up.

The middle path suggested is to broadcast the same news already broadcasted by AIR and Doordarshan.

Our Comments –

Monitoring is an issue and responsibility of the ministry and it should not in any manner prevent the growth of the FM Radio Industry. Broadcast delayed news will not result in growth of the FM Radio Industry in an age where time is the essence. The growth of television industry in India has resulted primarily due to the plethora of news related channels. Monitoring has not been an issue in the television industry then why the same should be an issue in the FM Radio industry. It is essential for FM Radio to take the next step in its evolution in India by allowing it to broadcast news and current affairs live and not delayed.

Issue No.7 –

- **Level Playing field vis a vis Satellite Radio**

TRAI Note –

FICCI Recommendations given in toto.

Our Comments –

FICCI Recommendations are exhaustive and should be reinforced. Accordingly, necessary steps should be taken to ensure level playing field for FM Radio vis a vis Satellite Radio.

Other Issues – GOPA Related

Issue No.1 –

- **Reduction of time period of 21 months from date of LOI till operationalisation of channel.**

Our Comments –

The time period should be reduced but the aforesaid point should be considered in relation to the Technical Issues related to Common Transmission Infrastructure(CTI). The experience from Phase II has been that even the time period of 21 months have not proved enough for operationalisation of channel since BECIL has not been able to fully commission the CTI. In the event, there is agreement on technical issues relating to commissioning of CTI etc., then the time period as given above can be reduced considerably.

Issue No.2 –

- **Technical specifications should be amended to include frequency stability and harmonic / spurious**

No Specific Comment on this issue.

Issue No.3 –

- **Fixing of floor price at bidding stage to ensure level playing field**

Our Comments –

Lowering the Floor Price to 10 – 15% of the highest bid might be a suggestion. The counter argument would be that lowering of the floor price might result in participation by frivolous entities.

Issue No.4 –

- **Restrictions on outsourcing of content**

Our Comments –

Removal of restrictions is essential as it would lead to reduction of costs as well as growth of this sector in smaller towns and cities which is the primary objective of Phase III.

Issue No.5 –

- **Blanket denial of renewal of license after expiry of license term of 10 years.**

Our Comments –

The suggestions in 5.6.3 of the paper can be considered instead of the present position but the OTEF should be reduced at the time of renewal.

Issue No.6 – Not Raised in TRAI Paper

The TRAI Consultation Paper has not dealt with the Music Royalty matter which is critical to the survival of the FM Radio Industry and it is imperative that suitable steps are taken to resolve this issue. The success of Phase III would be entirely dependent on this matter as royalty is one of the critical and major cost components of FM Radio Operations and until and unless steps are taken to reduce the huge license fees presently being levied, it would be impossible for the successful roll out of FM Radio in smaller cities and towns of the country.

Issue No.7 – Not Raised in TRAI Paper

Compulsory License Fees of 4% should be payable on net revenue generated from Radio business only and not the Gross Income of the entity having the FM license. This would help the players to undertake new activities and broaden their business resulting in faster growth of the Radio Industry.

Issue No. 8 – Not Raised in TRAI Paper

Furnishing of Bank Guarantee at the time of signing of the LOI is onerous since the financial worthiness of the players has already been proved by them upon payment of the OTEF. This condition should be done away with in Phase III.

Technical Issues –

Issue No.1 –

- **Cap on maximum number of FM Radio broadcast channels in a city. What should the number and basis thereof?**

No Specific Comment on this issue.

Issue No.2 –

- **Prevailing Co-channel spacing of 700 – 800 KHz is most optimal and necessary for FM radio broadcast without interference. Can co-channel spacing be reduced without affecting channel interference?**

Our Comments –

Should not be reduced since 700 – 800 KHz itself is creating interference in some locations although the international norm for spacing is much less. The technical constraints in the equipments etc. in India is the prime reason for the increased spacing between two channels.

Issue No.3 –

- **Transmitter Infrastructure should be common or left to individual broadcasters. In case, individual broadcasters are permitted to set up their towers, should sharing of such towers be mandated to other operators subject to technical feasibility**

Our Comments –

Yes, it should be left with the individual broadcasters and sharing of tower option to be decided by operators based on feasibility. The present position of sharing of Transmitter Infrastructure has faced several issues from delay in setting up of CTI to the smooth running of the same i.e. sharing of common charges etc.

Issue No.4 –

- **Is there a necessity to mandate reference co-location letter offer for better transparency and uniform treatment to all the stakeholders.**

Our Comments –

Yes, it should be followed but priority should be given to the individual broadcasters to set up their own infrastructure since Phase II launches have been delayed primarily due to delays from BECIL.

Issue No.5 –

- **Whether the present tower and space sharing guidelines are transparent and functioning effectively?**

Our Comments –

Guidelines are available, but local AIR stations are not clear about the same. Proper execution of the guidelines is required at ground level.

Issue No.6 –

- **Whether the present arrangement of system integration work done by BECIL is satisfactory and can be adopted for Phase III?**

Our Comments –

We have faced delays by BECIL in all the stations. The system integration work has also not been carried out satisfactorily in phase II. Total revamp of the present arrangement is required to be done with adherence of deadlines as the main priority.