

USISPF Comments on the TRAI Consultation Paper on the “Review of the Regulatory Framework for Broadcasting and Cable services (B&CS)”

USISPF welcomes the opportunity to submit feedback on the TRAI Consultation Paper on the “Review of the Regulatory Framework for Broadcasting and Cable services (B&CS).”

We are grateful for TRAI’s recognition of the ongoing issues faced by stakeholders under the current regime. We would also like to thank TRAI for recognising the advantages of deregulation and forbearance both for consumer choice and for furthering quality, growth and innovation in the B&CS sector. Consumers have received the benefits of progressive guidance such as: (i) continued forbearance on prices of a-la-carte TV channels offered by broadcasters; (ii) relaxation on the discount cap of broadcasters’ bouquets; and (iii) restoration of the original INR 19 ceiling on the MRP of a-la-carte channels that form part of a bouquet.

While these are important steps towards deregulation, there are economic regulations that still prescribe the manner in which stakeholders are to conduct their business. For instance, the Tariff Order prescribes the manner in which broadcasters are required to form and price their bouquets (including the types of TV channels that can be included in such bouquets). Accordingly, as suggested by TRAI in the Explanatory Memorandum of the Tariff Order dated 22 November 2022, we request TRAI to take additional steps to deregulate the pricing and packaging of TV channels by broadcasters.

Please see our key recommendations below, which focus on further deregulation of the sector.

- We believe the industry should move towards forbearance and allow market forces to take over. We would like to reiterate our support for deregulation on the issues raised in the Consultation Paper. However, this position is premised on the condition that all economic regulations imposed on broadcasters are also removed.
- TRAI introduced economic regulations in 2004 to bring about effective competition in the sector. However, TRAI also recommended a sunset date for all price regulations once there is sufficient competition in the market in its recommendations dated 1 October 2004. The relevant excerpt is as given below:

“Sunset date of price regulation clause

4.43 It must be emphasized that the regulation of prices as outlined above is only intended to be temporary and till such time as there is no effective competition. The best regulation of prices is done through competition. Therefore, as soon as there is evidence that effective competition exists in a particular area price regulation will be withdrawn. TRAI will conduct periodic reviews of the extent of competition and the need for price regulation in consultation with all stakeholders.”

- As acknowledged by TRAI, the economic regulations in the industry were intended to be temporary. However, they have been in place for the last 19 years despite all economic parameters indicating that there is effective competition and choice in the market. Please see the details below.

Data on Competition and Choice in the B&CS Market

	2004	Latest data ¹
Number of subscribers	45 million	184.14 million
Sector Revenue	INR 128 billion	INR 685 billion
Number of channels	160+	912
No. of DTH operator	1	4
No. of MSOs	-	1733
No. of cable operators	30,000	1,55,303

- In its recommendations on “Market Structure/Competition in Cable TV services” dated 7 September 2022, TRAI acknowledged that there is sufficient competition in the market. Therefore, we recommend the removal of all economic regulations (including price caps, ceilings, discount caps and restrictions in the formation of bouquets for both broadcasters as well as DPOs), allowing service providers to fix the prices of their TV channels and distribution services, and negotiate the terms and conditions of their interconnection based on market forces. In respect of areas where forbearance may best be implemented in a phased manner, we request that the framework for sunset provisions relating to interconnection and related regulatory principles should be identified and notified.
- As TRAI implements more regulatory reforms, we recommend that market-based agreements between broadcasters and DPOs be permitted. In the event DPOs and broadcasters are unable to execute a market-based agreement, the option of executing a Reference Interconnect Offer (RIO) should be provided. Such RIO-based agreements should be based on the RIOs/rate cards published by the broadcasters and the subscriber numbers and target markets published by the DPOs. More importantly, we request no restrictions on the pricing and packaging of broadcasters’ RIOs should be imposed, as there is adequate competition in the sector, which will ensure competitive prices for consumers.
- We believe that such deregulation will allow TRAI to focus its regulatory efforts towards protecting the interests of service providers, promoting the orderly growth of the sector, and ensuring better quality of services for consumers. Protecting the interests of service providers should involve creating an enabling environment that provides opportunities to survive in a highly innovative, hyper competitive and price sensitive market.

¹ FICCI Frames Reports (2006-2020); TRAI white paper, TRAI 2004 consultation paper, TRAI 2021 consultation paper

- Such deregulation will ensure the long-term sustainability and growth of the B&CS sector. The continuation of the “temporary” regulations first introduced in 2004 has created inefficiencies in the market and disincentivized innovation (both on content as well as on infrastructure). Therefore, to enable stakeholders to compete and innovate, and market forces to discover commercially sustainable competitive prices for consumers, it is essential that these regulations are removed.
- It is also important to highlight that almost all the regulations in the B&CS sector were introduced to address competition-related issues. To manage misconduct on such issues in a deregulated environment, we would recommend that: (i) TRAI build capacity and enhance its related in-house expertise by curating a team of experts; (ii) any allegations or complaints related to antitrust or competition issues in specific target market/geographical area can then be investigated by TRAI; (iii) if there is any evidence of misconduct, TRAI can impose remedial measures specific to the affected parties in these specific areas, instead of regulations which cut across the entire industry; and (iv) such remedial measures would then be removed once effective competition is restored in the given area.