

**Videocon d2h Limited's response to the consultation paper on the Consultation Paper No. 07/2014 on Regulatory Framework for Platform Services.**

On bare perusal of the letter dated January 17, 2013 issued by the Ministry of Information and Broadcasting it becomes clear that the reference made by the Ministry is in relation and limited to the transmission of local channels or ground based channels by Cable Operators / MSO's only. We state that there is no reference of DTH Platforms.

Unlike Cable/MSO, DTH industry as a whole is well regulated since its inception and continue to be so under different enactments, rules and regulations. The two regimes of Cable/MSO and DTH are too different a platform in the context of the reference and as such we think there is no propriety for DTH to be called for response on majority of questions raised in the consultation paper. It may be noted that copyright infringements issues/piracy issues are relevant in the context of issues between to individuals, the cable industry and not the DTH as it is already totally addressable. Platform services are an inherent part of all DTH platforms across the world. All TRAI regulations, Licensing conditions by Ministry of Information and Broadcasting, all other applicable laws including but not limited to SMS, PMR, prohibited activities, multiple taxation apply to DTH and not other Distribution Platform Operators (DPOs).

Thus, this consultation paper is more relevant from the perspective of making Cable/MSO sector more and more accountable by adopting the same level of legal and regulatory yardstick rather than mixing DTH industry into it. However, in order to assist the Authority in deriving an identical set of rules and regulations for all other DPOs, we would like to put our stand to each of the questions as appearing hereunder.

In the context of the above we would like to submit our response as follows:-

**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.”***

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**Response:** The word “programs” in the definition needs to be revisited and the definition needs to be broader so as to capture all genres of entertainment, information, interactive/active services etc. provided through PS. We further suggest that the linkage should not be created with reference to TV Channels permitted under Down-linking guidelines and Doordarshan Channels. Platform Services (PS) should be independent due to varying nature of services under the ambit of PS. Deriving a definition with TV Channels permitted under down-linking guidelines is not ideal.

**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,
- 2.1.2 Coverage of political events of any nature,
- 2.1.3 Any program that is/ has been transmitted by any Doordarshan channels or TV channels permitted under Up-linking / downlinking guidelines, including serials and reality shows,
- 2.1.4 International, National and State level sport events/ tournament/ games like IPL, Ranji trophy, etc.

**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.
- 2.4 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.

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**Response:** The Ambit of PS should also include the Stock Market updates, Weather Reporting, Quiz etc. We request the authority to kindly elaborate the understanding of “Local Nature” and “Live Coverage”.

However it should be appreciated that DTH operators are operating PAN INDIA, the relevant modification in above permissions should be given PAN India, instead of limiting it to Particular District. We agree with all specific areas shown from 2.2.1 to 2.2.6. However, we do not agree with current affairs getting excluded from point No.2.1.1 above.

We wish to raise concern towards contradicting aspects captured clause 2.1.3 and 2.2.1. We, as a DTH Operator provide Movie/s as a Video on Demand Services to our Subscribers. As per present understanding under abovementioned clauses we will not be in a position to offer the said services to our Subscribers as Movies are telecasted via TV Channels permitted via downlinking license also. These contradictions need to be thoroughly addressed.

We, further request the Authority to elaborate clause 2.1.4 with in order to correctly ascertain the types of sports permissible and for clarification is club level sporting activity presumed to be outside ambit of this clause. We state that regulating only News and current affairs content will suffice. As per our view there has to be only be an inclusive list of permitted content.

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

**Response:** DTH Operators are already mandated to keep back up record for 90 days, and similar provision should be mandated for other DPOs. Hence the periodicity of review for all other DPOs also needs to be at par with the requirement for DTH.

**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?**

**Response:** Yes, we ascertain that all DPO’s should be registered as Companies under the Companies Act.

**5. Views, if any, on FDI limits?**

**Response:** Currently for DTH/Cable limit allowed is 74% which applies for all its assets in totality. For broadcasting channels FDI Norm is at a threshold of 49 % currently. Hence, PS Channels cannot and should not be brought into ambit of FDI separately.

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

**Response:** We propose a minimum capital employed of Rs. 5,00,00,000/- (Rupees Five Crores) for all other DPO's offering PS channels. All other DPOs should have a minimum capital

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

**Response:** No. there should not be any separate security clearances/conditions for all other DPOs.

**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?**

**Response:** We suggest a one-time online registration process valid for 10 years with no fee levied per PS channel for all other DPOs. So far as DTH operator is concerned the validity of the registration of the Platform Services should be linked with the validity of the DTH License term. There should not be any fee imposed on the DTH operators in respect of the Platform Services. Among all the DOP's, only the DTH operators are required to pay entry fee, license fee and also furnish bank guarantee, there should not be any requirement of any additional payment by the DTH operators on account of Platform Services. The requirement for payment annual fee can be imposed on the cable/MSO platform who are currently not required to pay any kind of entry or license fee to the government.

**9. What is your proposal for renewal of permission?**

**Response:** It has to be directly linked to the validity period of the DTH License Agreement. For other DPOs identical approach can be adopted.

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

**Response:** No. The geographical area for Platform Services should be linked with the License available with the respective DPOs. The DTH has pan India license and accordingly, the DTH operators should be permitted to have the Platform Services for the entire country.

**11. Should there be a limit on the number of PS channels which can be operated by a DPO? If yes, then what should be the limit?**

**Response:** No, there should not be such limit, as PS Channels via various offerings are Value Added Service (VAS) for keeping varied interests of the Subscribers coming from different segments.

**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;**

**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; and**

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

We strongly suggest the necessity for compliance of Advertising and Programming Code by all other DPOs. The DTH License condition imposes an obligation on the DTH operator to comply with all applicable laws including the Programme & Advertisement Code. This will create a level playing field.

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

**Response:** Since digitization process will soon be over similar set of rules and regulations as apply to DTH industry today, should be made applicable to all other DPOs.

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**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?**

**Response:** Yes, however there should be no restrictions on the number of FM Radio Channels

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

**Response:**

Can be through filing details in a prescribed format of PMR as presently applicable for DTH operators

**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.**

**Response:**

Unlike PS, TV channels are distributed to all viewers same penal provisions are not warranted.

**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?**

**Response:**

As stated above there are already sufficient checks and balances are in place with regard to DTH industry there is no need to modify, add or amend the guidelines for DTH operators however other operators should be brought at par in respect of compliances and reporting.

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**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?**

**Response:** One year, with all guidelines as to capital, programming codes, advertising codes etc with automatic approval/renewal.

**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.**

**Response:** Since DTH industry is entirely regulated including for the purpose of PS the present consultation paper and recommendations thereafter need to be restricted to only all other DPOs and not DTH.

We would like to appreciate the fact that the Hon Authority has come out with this Consultation Paper in order correctly address certain genuine concerns like anti national transmissions, pirated movies, foreign movies, pornographic content, to name a few, which directly impacts the social fabric of the society and disturb a law and order situation. Programmes/content of such nature is often transmitted by other DPOs without having requisite licenses, permissions, sanctions, which needs to be reined in time before it assumes enormous proportion. We therefore request the Hon. Authority to bring in vogue all applicable rules and regulations for all other DPOs at par with which DTH is being currently governed and regulated.

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