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Sub: AIDCFs response to Consultation paper on Issues relating to Uplinking and Downlinking Television channels in India

AIDCF (All India Digital Cable Federation) wishes to express its sincere gratitude to the Telecom Regulatory Authority of India (the Authority) for its support and cooperation in the establishment and growth of Broadcasting & Cable TV industry in India. The Federation further thanks the Authority for providing an opportunity to submit comments/ response on the Consultation Paper on "**Issues relating to Uplinking and Downlinking Television channels in India**" as issued by the Authority

In this regard, please find our pointwise response as below:

Definition of 'News and Current Affairs channels' and Non-'News and Current Affairs Channels'

4.1 Is there any need to redefine "News and Current Affairs TV channels", and Non-News and Current Affairs TV channels" more specifically? If yes, kindly suggest suitable definitions of "News and Current Affairs TV channels" and Non-News and Current Affairs TV channels" with justification.

Answer

The current categorization and definition are fine.

Net-worth of eligible companies

4.2 Should net-worth requirement of the applicant company for granting uplinking permission, and/ or downlinking permission be increased? If yes, how much should it be? Please elaborate with appropriate justification.

4.3 Should there be different net-worth requirements for uplinking of News and non-News channels? Give your suggestions with justification?

Answer:

There should be minimum net worth requirements to facilitate only serious and real participants to utilize scarce air space.

Processing fee for application

4.4 Is there any need to increase the amount of non-refundable processing fee to be deposited by the applicant company along with each application for seeking permission under uplinking guidelines, and downlinking guidelines?, What should be the amount of non-refundable processing fee? Please elaborate with justification.

Answer:

The current processing fee of Rs. 10,000 is very low and it should be increased to Rs. 5,00,000 to facilitate only serious and real participants.

Grant of license/ permission for Satellite TV Channels

4.5 Whether auction of satellite TV channels as a complete package similar to FM Radio channels is feasible? If yes, then kindly suggest the approach.

Answer:

No. As both the business models are completely different, auction of satellite TV channel as a complete package should not be allowed. In case of satellite TV channels even there are different genre and auction of each genre will not only be a tedious process but would also derail the growth of whole broadcasting sector.

4.6 Is it technically feasible to auction individual legs of satellite TV broadcasting i.e. uplinking space spectrum, satellite transponder capacity, and downlinking space spectrum? Kindly explain in detail.

Answer:

No. it may be technically feasible but practically it will create havoc in the sense that use of a particular uplinking satellite spectrum and the corresponding satellite transponder capacity are

tightly coupled with each other i.e. the satellite transponder capacity allocated to a company cannot be used without corresponding uplinking satellite spectrum, and similarly, a particular uplinking satellite spectrum, beamed towards a particular satellite, is of no use if the corresponding right to use of that satellite transponder capacity is not available with the same entity. Therefore, for success of satellite TV broadcasting, it is important to ensure that right to use for a satellite transponder capacity and corresponding uplinking, downlinking satellite spectrum are allocated to the same entity.

4.7 Is it feasible to auction satellite TV channels without restricting the use of foreign satellites, and uplinking of signals of TV channels from foreign soil? Kindly suggest detailed methodology.

Answer:

No. Please refer to our answer for point no. 4.5 above.

4.8 Is it advisable to restrict use of foreign satellites for satellite TV broadcasting or uplinking of satellite TV channels, to be downlinked in India, from foreign soil?

Answer:

It is not only advisable but may not presently be technically feasible to restrict use of foreign satellites for satellite TV broadcasting or up linking of satellite TV channels. There are several parameters to be considered including governmental control management over such satellites, availability of transponder space, responsiveness, footprint etc. While preference may be given to a company using and Indian Satellite it is no advisable for it to be mandated by law.

Another factor would be that in the absence of any private sector in the satellite business, the government which is body in charge could not indulge in inter-alia, cartelisation and discrimination etc.

The present system being followed seems to be both feasible and non-intrusive.

4.9 Can there be better way to grant license for TV satellite channel than what is presently followed? Give your comments with justification?

Answer:

No. The existing practice for grant of license for TV satellite channel is working efficiently and there is no requirement for changing the same.

Entry Fee and License fee

4.10 If it is decided to continue granting of licenses for satellite TV channels on administrative basis, as is the case presently, what should be the entry fee for grant of license for uplinking of TV channels from India, downlinking of TV channels uplinked from India, and downlinking of foreign TV channels? Please suggest the fee amount for each case separately with appropriate justification.

Answer:

Item	Existing	Recommended	Justification
Entry Fee for Uplinking of TV Channel from Indian Soil	Nil	Rs.5 Lakhs	To deter non serious players to enter the market
License Fee for Uplinking of TV Channel from Indian Soil	Rs. 2 lakhs per annum	Rs. 5 lakhs per annum	To deter non serious players to enter the market
Entry Fee for Downlinking of TV Channel uplinked from Indian Soil	Nil	Rs.5 Lakhs	To deter non serious players to enter the market
License Fee for Downlinking of TV Channel uplinked from Indian Soil	Rs. 5 lakhs	Rs. 10 Lakhs per annum	To deter non serious players to enter the market
Entry Fee for Downlinking of TV Channel uplinked from Foreign Soil	Rs.10 Lakhs	Rs.20 Lakhs	To deter non serious players to enter the market
License Fee for Downlinking of TV Channel uplinked from Foreign Soil	Rs. 15 lakhs	Rs. 25 Lakhs per annum	To deter non serious players to enter the market

4.11 What should be the license fees structure, i.e. fixed, variable, or semi-variable, for uplinking and downlinking of satellite TV channels? Please elaborate if any other license fee structure is proposed, with appropriate justification.

Answer

Please refer to our answer to point no. 4.10 above.

4.12 If the variable license fee structure is proposed, then what should be rate of license fee for TV channels uplinked from India and TV channels uplinked from abroad, and what should be the definition of AGR?

Answer

There should not be any variable license fee levied on TV channels. AGR has been a bone of contention and lot of matter with regard to AGR are sub-judice and any levy of AGR is highly opposed.

4.13 If the semi-variable license fee structure is proposed, then what should be the minimum amount of license fee per annum for domestic channels (uplinked and downlinked in India), uplink only channels, and downlinking of foreign channels (uplinked from abroad)?

Answer

Not applicable as variable license fee not recommended.

4.14 If the fixed license fee structure is proposed, then what should be the license fee per annum for domestic channels, uplink only channels, and downlinking of foreign channels?

Answer

Please refer to our answer to point 4.10 above.

4.15 What should be the periodicity for payment of the license fee to the Government? Please support your answer with justification.

Answer

The periodicity for payment of the license fee to the Government should be per annum, as it gives opportunity to the government to review and weed out non-serious players.

4.16 What should be the periodicity for review of the entry fee and license fee rates?

Answer

It should be reviewed every Five Years.

Encryption of TV channels

4.17 Should all TV channels, i.e. pay as well as FTA satellite TV channels, be broadcasted through satellite in encrypted mode?

Please elaborate your responses with justification.

Answer

As digitization across India is already over, any unencrypted channels should not be allowed at all.

Operationalization of TV channel

4.18 Is there a need to define the term "operationalization of TV channel" in the uplinking guidelines, and downlinking guidelines?

If yes, please suggest a suitable definition of "operationalization of TV channel" for the purpose of the uplinking guidelines, and the downlinking guidelines separately.

Answer

Operationalization of a TV Channel means that a satellite TV channels is made available on various distribution platforms within 90 days of the permission granted and the same is made available for a minimum period of six months.

Any channel which does not become operational within the above stipulated time shall seek fresh approval. The rules for such an extension or fresh approvals, should be an exception and not the rule.

4.19 Maximum how many days period may be permitted for interruption in transmission or distribution of a TV channel due to any reason, other than the force-majeure conditions, after which, such interruption may invite penal action? What could be suggested penal actions to ensure continuity of services after obtaining license for satellite TV channel?

Answer

Maximum forty-eight hours may be permitted for interruption in transmission or distribution of a TV channel due to any reason, other than the force-majeure conditions, after which, such interruption may invite penal action.

The License for such Broadcaster should be suspended for 3 months. In case of any subsequent the default during the subsistence of the existing license, the license should be cancelled.

Transfer of License

4.20 Whether the existing provisions for transfer of license/permission for a TV channel under uplinking guidelines, and downlinking guidelines are adequate? If no, please suggest additional terms and conditions under which transfer of license/permission for a TV channel under uplinking guidelines, and downlinking guidelines may also be permitted? Please elaborate your responses with justification.

Answer

The other license governing the industry like DAS license for MSOs and Postal License for Cable Operators are not transferable, hence the license for a TV channel should not be transferable.

4.21 Should there be a lock in period for transfer of license/permission for uplinking, or downlinking of a TV channel? If yes, please suggest a suitable time period for lock in period. Please elaborate your responses with justification.

Answer

Not applicable as not recommended.

4.22 Should the lock in period be applicable for first transfer after the grant of license/ permission or should it be applicable for subsequent transfers of license/ permission also?

Answer

Not applicable as not recommended.

4.23 What additional checks should be introduced in the uplinking, and downlinking permission/ license conditions to ensure that licensees are not able to sub-lease or trade the license? Please suggest the list of activities which are required to be performed by Licensee Company of a satellite TV channel and can't be outsourced to any other entity to prevent hawking, trading or subleasing of licenses.

Answer:

As suggested in the consultation paper trade mark registration of the name of channel and logo in the name of licensee company, editorial responsibility of the programs being telecasted, teleport/ satellite agreement in the name of licensee company, disclosure of licensee company name on website of the channel as well as on channel transmission, scheduling of programs etc.

4.24 Whether specific definition of a teleport is required to be incorporated in the policy guidelines? If yes, then what should be the appropriate definition? Please elaborate responses with justification.

Answer: No Comments

Entry fee, Processing fee, and License fee for teleport license

4.25 Is there any need to increase the amount of non-refundable processing fee to be paid by the applicant company along with each application for teleport license? If yes, what should be the amount of non-refundable processing fee? Please elaborate with justification.

Answer: No Comments

4.26 Should entry fee be levied for grant of license to set up teleport?

If yes, what should be the entry fee amount? Please give appropriate justification for your response.

Answer: No Comments

4.27 What should be the license fee structure for teleport licensees? Should it be fixed, variable or semi-variable? Please elaborate if any other license fee methodology is proposed, with appropriate justification.

Answer: No Comments

4.28 What should be the rate of such license fee? Please give appropriate justification for your response.

Answer: No Comments

4.29 What should be the periodicity for payment of the license fee to the Government? Please support your answer with justification.

Answer: No Comments

4.30 What should be the periodicity for revision of the entry fee, and license fees rate for teleport licensees?

Answer: No Comments

Restriction on the number of teleports

4.31 Whether there is a need to restrict the number of teleports in India? If yes, then how the optimum number of teleports can be decided? Please elaborate your responses with justification.

Answer: No Comments

4.32 Whether any restriction on the number of teleports will adversely affect the availability or rates of uplinking facilities for TV channels in India?

Answer: No Comments

Location of teleports

4.33 What should be the criteria, if any, for selecting location of teleports? Should some specific areas be identified for Teleport Parks? Please elaborate your responses with justification.

Answer:

A site is picked based on various factors including certain corporate policies. While an option and incentive may be provided to the company to consider such teleport parks in the form tax breaks etc., the right to choose the location for the teleport should be left up to individual stake holders

Optimum use of existing teleport infrastructure

4.34 Please suggest the ways for the optimal use of existing infrastructure relating to teleports.

Answer:

The entire issue of optimising use of teleport through sharing of infrastructure not only has to be pushed but has to be pushed at all levels and the savings should be passed on to the customer. Piecemeal sharing does not help. The entire pass through systems have to be considered for the benefit of the consumer / customer.

Unauthorized uplink by Teleport Operator

4.35 What specific technological and regulatory measures should be adopted to detect, and stop uplink of signals of non-permitted TV channels by any teleport licensee? Please elaborate your responses with details of solution suggested.

Answer: No Comments

Any other issue

4.36 Stakeholders may also provide their comments on any other issue relevant to the present consultation.

Scope of Copyright Act

The Central Government should formulate a policy with regard to application of copyright law for TV channel. Now a day's broadcasters resort to initiation of criminal proceedings in the name of copyright infringement for supply of signals of television channel thereby coarsening distributors of TV channel to enter into interconnect agreement on unreasonable terms. Supply of TV signals should only be governed by TRAI regulations and any disputes thereof should only be resolved in terms of the redressal mechanism provided under TRAI Act.

We are in no way suggesting that copyright of the Broadcasters in the content is abridged, they should be free to initiate copyright action if any specific content of theirs are infringed outside the television channel linear broadcast. For linear transmission of television channel, no copyright action can be initiated. In case if any dispute arises then the same should be dealt by TDSAT or TRAI. This will go a long way in bringing in transparency and non-discrimination in the value chain.

Regards
For All India Digital Cable Federation


(Authorized Signatory)