

Bharti Telemedia Limited's response to the Consultation Paper on Regulatory Framework for Platform Services

At the outset, we wish to thank the Authority for issuing this consultation paper, and hope the exercise breeds favorable outcomes for all stakeholders in the value chain. "Platform Services" have been defined in the consultation paper as *"programs transmitted by Distribution Platform Operators (DPOs) exclusively to their own subscribers and do not include Doordarshan channels and TV channels permitted under the downlinking guidelines."*

We submit that the above definition does not accurately describe the scope or intent of the provision of such services by platform operators. Also, the definition above classifies these services as programs, which is not entirely accurate, and can definitely not be applied as a standard for all.

In a competitive market such as India, these services typically aid in differentiating one platform from another, and have evolved to include a wide variety of applications ranging from platform related information, electronic program guides, interactive content and games, movies/video/music on demand, Pay per view, time shift television and several others. Many such services would not classify as programs, and some may serve no more than to improve the experience of the platform (time shift television etc). Any definition that seeks to define the category as a whole, should take this inherent diversity into account. To that end, we propose an alternative definition in our responses to the specific questions raised by Authority.

The consultation paper also seeks industry inputs on the distinction between platform services and regular broadcast television channels. The Authority has accurately captured an important aspect of this distinction in its consultation paper. A key difference between content related platform services (PPV, VoD etc) and regular channels rests in the manner in which the content is viewed by end users. While regular broadcast television channels run in a linear non-interactive mode across all platforms, the platform services offered by operators are always "pulled" or explicitly requested by the subscribers of a particular platform. These services are unique to a service provider, are customized to the specific needs of its subscribers, and are therefore, limited to a closed user group.

Yet another distinction between the two (channels vs. content related platform services) stems from the manner in which this content is provided to end users. While TV channels are downlinked from broadcasters and subsequently re-transmitted through DPOs, the content provided through platform services is spooled from electronic storage (hard drives etc), and simply transmitted by service providers through their network. Additionally, at least in the case of the DTH operators, this content is procured from respective owners, carries censor board approval, and is licensed for public viewing within India. Other platform services such as the electronic program guide, time shift television etc., can in no way be classified as channels, are common features of distribution platforms the world over, and should be taken into

consideration when formulating any policy that would affect the provision of **all** platform services. The sheer scope and complexity of platform services renders any comparisons with channels insufficient and incapable of accurately defining and articulating the intent of these services.

These services are indicators and evidence of evolving technology and increased competition, and should be incentivized. There is a clear social and economic merit in the provision of such services. For a consumer, this set of services enables a once inconceivable personalized viewing experience. For all service providers, it serves as a call for action to innovate and pursue certain growth.

It is clear from the following table that the DTH operators have most stringent licensing requirement out of all the licenses.

Parameters	DTH	MSO	HITS	Broadcasters
Entry/permission Fee	Rs. 10 crores	Rs. 1 Lakh	Rs. 10 Crores	Processing fee at Rs. 10000 per channel
Annual License Fee	10% of GR	Nil	Nil	Permission fee at Rs. 2 lakh per channel per annum for both news and non-news channels
Bank Guarantee	Rs 40 crore	Nil	Rs. 40 Crores	Rs. 1 crore per non-news channel, Rs. 2 crore per news channels

Therefore any service which is allowed to any other license should also allowed to DTH operator. While providing the platform services, DTH operators not only meet the all compliance requirement but also pay higher share of revenue from those services. Therefore provisioning of platform services by DPOs is not only in interest of consumers and DPOs but also leads to higher income for exchequer.

Content related platform services cannot and should not be construed as broadcast TV channels. The two are driven by strikingly distinct business models. While broadcasters are owners and/or exhibitors of content and regular television broadcasting, DPOs such as DTH operators are the distributors of this content, and in competition with their peers, bring innovative services such as the ones under discussion, to differentiate their platform from others.

To fully comprehend the scope and promise of platform services, one needn't look further than the innovations taking place in this sector across the world. Platform operators in mature

markets such as the United States offer a wide variety of platform services to their customers. Some such services are listed below

- TV Apps such as Facebook & Twitter
- Animated and HD program guides
- Watching multiple channels at the same time on one dedicated HD channel (Marketed specifically for sports packages)
- Specialized content during sporting seasons (Player profiles, history etc)
- Time shift television
- Pay Per View and On demand content in VoD and SVoD modes
- Interactive content and games

Consumers in such markets enjoy a far better TV viewing experience, and have access to a wide variety of content at their convenience. Technology is today capable of bringing to consumers exactly the kind of content they seek, and such innovation should not be hampered by regulations. In India, platform services can also help fill the information gap due low broadband penetration, to a great extent by providing the informative and interactive content.

In light of the above, we earnestly request the Authority to prescribe light-touch regulations on platform services and to not treat these as services on par with broadcasting channels. Taking note of the distinction between the two is critical for the growth of this specialized subsector.

In line with our submission above, we submit our responses to the specific questions raised by the Authority.

Q1. 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.”

Our Response:

As indicated above, this definition does not capture the diverse applications of platform services. Therefore, we suggest the following definition:

“Platform services (PS) are services offered by Distribution Platform Operators to improve or supplement the delivery of content on their platform, and include platform related information, interactive content and games, time shift television, movies/video/music on demand, Pay per view, and other content procured from a wide variety of owners, and distributed to subscribers.

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Q2. Kindly provide comments on the following aspects related to programs to be permitted on PS channels:

2.1 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 uplinking/ downlinking guidelines, including serials and reality shows,**
- 2.1.4 International, National and State level sport events/ tournament/ games like IPL, Ranji trophy, etc.**

2.2 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.**
- 2.2.4 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.**

Our Response:

We wish to state that the above list should be consolidated to a list that explicitly prohibits certain activities, and leaves the rest to innovation and technical progress. It stands to reason that future advancements in technology may lead to the development of a service/product that may not fit in a list such as the one above.

A single list of prohibited activities would serve to prevent the carriage of prohibited content, and allow operators the flexibility required to innovate and bring new services to market.

Additionally, item 2.1.3 in the list above should be removed from the final list. Broadcasters and distributors should be free to enter into viable commercial arrangement that benefit both. Such arrangements or agreements for access to content should essentially be left to market forces.

Q3. What should be periodicity of review to ensure that the PS is not trespassing into the domain of regular TV broadcasters?

Our Response:

We support the Authority in its decision to periodically review the content of the platform services, and submit that a reasonable duration that does not strain resources would be acceptable. We propose an annual review.

In this regard, the Authority may suggest a standard format under which DPOs can provide information related to its platform services on an annual basis.

Q4. 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?

Our Response:

Yes, we are of the view that all DPOs should be registered as companies under the Companies Act. As the industry matures, it will become increasingly important for all stakeholders to conduct their business in a professional and accountable manner, and measures such as a requirement to register under the Company Act would be a step in the right direction to bring increased transparency and accountability to a growing industry.

Q5. Views, if any, on FDI limits?

Our Response:

Platform services will be provided by DPOs under their respective licenses. As licensed service providers, DTH operators are already subject to FDI limits, and the same should cover the provision of platform services. Similarly, FDI limits for other DPOs have also been prescribed.

Any differential FDI limits for the DPO licence/registration vis-à-vis platform services will create unnecessary complexity. Therefore, FDI limits as prescribed for different DPOs should continue.

Q6. Should there be any minimum net-worth requirement for offering PS channels? If yes, then what should it be?

Our Response:

Since no net worth requirements have been prescribed under the DTH license agreement, and sufficient mechanisms to ensure a commitment to the industry have already incorporated in the licensing terms & conditions (licence fee, entry fee etc), we request the Authority to not recommend any additional net worth requirements for offering platform services.

Q7. Do you agree that PS channels should also be subjected to same security clearances/ conditions, as applicable for private satellite TV channels?

Our Response:

DTH operators have been granted licenses after due security and statutory clearances therefore the security clearances and conditions contained in the DTH License Agreement should suffice for the provision of these services, and no additional security measures may be required. Since the DTH platform itself is cleared from security perspective and designed to have a monitoring capability therefore a separate clearance for platform services is not required.

Q8. 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?

Our Response:

As submitted in our response to Question No. 3, DPOs can submit the details of their platform services on periodic basis. As a part of the same process, the DPOs may also submit the information of any new platform service in a standard format within 10 days from the date of launch of their platform services.

There is no need for any specific requirements to register platform services and we recommend that the DPOs should only be required to provide relevant details (as prescribed by the Authority). Additionally, these services cannot be classified as channels, and should not be treated as such.

The validity to operate such services should be conterminous with the license agreement. Since DTH operators have paid Rs.10 Crore entry fee and also are required to pay 10% of Gross Revenues as license fee, no further charges should be levied on the provision of these services. Such charges, if imposed, would tantamount to double charging as revenue from the services would be included in the operators' gross revenue, on which a revenue share would already have been paid to the government.

Q9. What is your proposal for renewal of permission?

Our Response:

The permission to operate these services should last for the duration of the DTH licence agreement, and renewals should be automatically linked to the renewal of licenses.

Q10. Should there be any limits in terms of geographical area for PS channels? If yes what should be these limits.

Our Response:

A DTH operator today has pan-India license and the same should extend to these platform services. For other platforms, the geographical area of platform services can be limited to the scope of their licence agreement/registration certificate.

Q11. 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?

Our Response:

Limiting the number of platform services would only serve to inhibit innovation and limit the ability of operators to compete with one another. Therefore DPOs should not be restricted from doing so.

Q12. 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.**

Our Response:

With respect to the first two activities listed above (12.1 & 12.2), we submit that content related platform services may be transferable on prior approval by MIB and if commercially viable should be interconnected with other networks at the discretion of concerned parties.

As to the matter relating to compliance with the Program and Advertisement code, we submit that these services should be subject to the provisions of this code, as has already been stated in the DTH license agreement under clause 5.1

Q13. What other obligations/ restrictions need to be imposed on DPOs for offering PS?

Our Response:

We submit that there should not be any additional obligations and restrictions on DTH operators to offer said platform services. These services should be governed under light-touch regulations under the following guidelines.

- A holistic definition for 'platform service' that articulates their scope and intent needs to be articulated
- Only a list of prohibited services/content need be prescribed by the Authority, and operators should be free to innovate and bring new compliant services to market
- Annual review to ensure compliance of platform services, in a format prescribed by the Authority
- All entities of platform operators should be registered under the Companies Act
- FDI limits prescribed in the DTH license are suitable for extension to the provision of platform services by licensees. Other DPOs should also be brought under similar restrictions
- A sufficient number of mechanisms to ensure the continued commitment of operators to the industry have already been prescribed by the Authority, and additional Net Worth requirements are unnecessary
- Security Clearances mandated in the DTH licence are adequate for the provisioning of these services, and similar clearances should be sought of other DPOs
- Registration of these services should be on due notification by DPOs, within 10 days of launch of the service
- DTH operators already pay a license fee on revenue generated from these services and an additional annual fee per platform service is unwarranted
- The permission to offer such services should be in concurrence with the validity of the license and said permission should be considered renewed upon renewal of the licence
- The defined relevant market for DPOs should govern the geographical reach of platform services offered by respective operators
- Placing a limit on the number of platform services that can be offered at any given time would essentially hamper innovation, and as such should not be part of policy. Operators should be free to offer as many such services as they see fit, provided these services fall within the compliance framework prescribed by the Authority
- Content related platform services should only provide content that is
 - procured from respective owners, and
 - certified for unrestricted public exhibition by the Central Board of Film Certification
- Content related platform services may be interconnected with other networks on prior approval by MIB

Q14. 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?

At present, FM radio stations are available to listeners on multiple platforms. Once limited to local radio stations on legacy radio hardware, listeners can now enjoy FM channels from around the nation on a wide variety of devices (through the internet). In fact, FM operators are offering live FM services on their websites, which can be accessed both nationally and internationally. FM channels are already available outside their designated service areas, and there is no reason to limit the carriage of these FM channels on the platforms operated by DPOs.

Since live contents of FM channels are already available on other platforms, subscription of FM services via DPOs platform would only be an extension. Moreover, Subscribers of DTH or cable TV would receive these signals at a fixed location, for their own consumption. Therefore, the carriage of these FM stations should be permitted to DPOs, and no limit needs to be prescribed for the same.

Q15. Please suggest the mechanism for monitoring of PS channel.

Our Response:

As per clause 8.1 of the DTH license agreement, "The Licensee shall provide the necessary facility for continuous monitoring of the DTH broadcasting service at its own cost and maintain the recordings of programmes and advertisements carried on the platform for a period of 90 days from the date of broadcast and produce the same to the Licensor or its authorized representative, as and when required".

The same monitoring mechanism should be sufficient for the provision of platform services.

Q16. 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.

Our Response:

Since these services do not classify as channels, and the content they carry is appropriately licensed and approved for exhibition, the same penal provisions that apply to broadcasters of regular scheduled broadcast television may not apply to DPOs offering these platform services.

These platform services are intended to be unique offerings, and violations should be addressed accordingly.

Q17. 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?

Our Response:

In light of our response above, the license agreement may be suitably amended to include any or all recommendations contained within this response.

Q18. 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?

Our Response:

Depending on the scale and scope of affecting this conformity, a suitable duration (around one year) to bring these under compliance may be recommended by the Authority.

Q19. Stakeholders may also provide their comments on any other issue relevant to the present consultation including any changes required in the existing regulatory framework.

Our Response:

The growing convergence between telecommunications and broadcasting is an eventuality that has been recognized by the Authority. In its latest recommendations on issues relating to new DTH licenses, the Authority has accurately identified this convergence, and recommended steps to more closely align the licensing of DTH operators with the licensing regime that governs telecommunication service providers.