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TRAI/FY22-23/132

Dated: 27.03.2023

To,  
**Shri Sanjeev Kumar Sharma,**  
**Advisor (Broadband and Policy Analysis)**  
**Telecom Regulatory Authority of India,**  
Mahanagar Door Sanchar Bhawan,  
JawaharLal Nehru Marg,  
New Delhi – 110 002.

**Subject: Response to Consultation Paper on “on Regulating Converged Digital Technologies and Services – Enabling Convergence of Carriage of Broadcasting and Telecommunication services**

Dear Sir,

This is in reference to TRAI’s Consultation Paper on “Regulating Converged Digital Technologies and Services – Enabling Convergence of Carriage of Broadcasting and Telecommunication services” dated 30.01.2023 (CP No. 3/2023).

In this regard, please find enclosed our response for your kind consideration.

Thanking You,

Yours’ Sincerely,  
**For Bharti Airtel Limited**

A handwritten signature in blue ink, appearing to read 'Rahul Vatts', is written over a light blue horizontal line.

Rahul Vatts  
Chief Regulatory Officer

Encl: a.a

**Response to TRAI Consultation on  
Regulating Converged Digital Technologies and Services – Enabling Convergence of Carriage  
of Broadcasting and Telecommunication services**

**Executive Summary:**

At the outset, Airtel wishes to thank the Authority for coming out with this Consultation Paper on a subject of vital importance, which has come at a very opportune time.

Telecom and Broadcasting sectors play vital role in the development of a society by acting as a medium of information and knowledge transfer, stimulate economic growth and bring cohesiveness among citizens and socio-economy. Considering the importance of Broadcasting, India created an enabling and progressive regulatory framework that ensured:

- a. All broadcasting content is available to customers without discrimination through every Distribution Platform Operator (DPO) i.e. DTH, multi-system operator, IPTV and HITS operators, – **through TRAI “Must Provide” Principle<sup>1</sup>**
- b. Separation of Broadcast and Distribution sector – **through MIB cross-holding restrictions<sup>2</sup>**

This framework built on sound regulatory principles such as customer choice, transparency, and non-discrimination, has ensured non-exclusivity for all stakeholders and worked exceptionally well so far. The non-discriminatory access to broadcast content through distribution platforms has stood test of time.

However, dynamics of Telecom & broadcasting has undergone massive shift, driven by the convergence of underlying carrier/ bearer technologies as explained in the paras below, which will require a renewed regulatory regime:

▪ **Several different technologies are delivering the same customer experience**

- a. Due to availability of high speed broadband services through 5G wireless or fixed line broadband, a fundamental shift has happened in content broadcast, accelerated due to convergence of distribution platform on **wireless and wireline broadband**. As per some estimates<sup>3</sup>, by 2025, it is expected that the **total screen count will reach about a billion with ~250 million television screens and over 750 million smartphone screens**.
- b. Today, linear programming, live broadcasting and global and local content are being consumed across screens (e.g., smartphone, PC, Smart TVs). Due to availability of high-speed broadband services and smart devices, previous dependency on specific devices for watching broadcast content has been nullified, essentially eliminating any difference between of distribution platform on **wireless and wireline broadband** and a registered distribution platform operator.
- c. **While MIB and TRAI regulate the existing Distribution Platforms (DPOs), e.g. DTH, IPTV, MSOs and HITS, no such regulatory framework exists for same broadcast content being delivered on wireless and wireline broadband through an application and visible on large screens. This has**

<sup>1</sup> [https://www.trai.gov.in/sites/default/files/Interconnection\\_Regulation\\_03\\_mar\\_2917.pdf](https://www.trai.gov.in/sites/default/files/Interconnection_Regulation_03_mar_2917.pdf), pg 83

<sup>2</sup> Guidelines for obtaining License for providing DTH Broadcasting Services in India, dated 15th March 2001, <https://mib.gov.in/sites/default/files/GuidelinesforDTHServiceDated15.3.2001.pdf>

<sup>3</sup> <https://ficci.in/spdocument/23200/FICCI-EY-Report-media-and-entertainment-2020.pdf>

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created an anti-competitive environment and a non-level playing field for the DPOs. This situation can be seen illustratively, as shown below:

The specific aspects of convergence on one hand, and differential regulatory approach of carriage on the other hand can be further understood through the following table:

Mode of Content delivery / access (e.g. Content is a Live Channel / Sports)	Content rides on (underlying bearer)	Is Mode regulated (Y/N) - Need License or Registration	Pays License Fee (Y/N)	Tariffs Regulated (Y/N)	Licensed under & regulated by (for access & carriage)
DTH	Satellite & Dish	Yes (License)	Yes (8%)	Yes	MIB & TRAI
MSOs / Cable TV	Satellite, Dish & Cable / Fiber	Yes MSO (Licence); Cable (Registration)	No	Yes	MIB & TRAI
IPTV	Fiber	Yes (License)	Yes** (8%/ 0%)	Yes	DoT/MIB & TRAI
HITS	Satellite, Dish & Cable / Fiber	Yes (License)	No	Yes	MIB & TRAI
DD Free Dish	Satellite & Dish	No	No	No	Under Prasar Bharti Act (no TRAI regulation apply on it)
Broadcast content being delivered over broadband through an application	Highspeed broadband (Wireless / Wireline)	No	No	No	No

\*\* As per media reports Government is likely to exempt the revenue from IPTV from LF under UASL/ISP Licence.

d. **This convergence of carriage medium with differential treatment of regulation, is anomalous and leads to the risk of unequal access of same broadcasting content** i.e. content broadcast under DPOs get covered under regulations of must carry-must provide principle and NTO; but no such regulation exists if content broadcast was to happen over **broadband networks**.

▪ **Regulatory provisions creating disparity in a technology-neutral environment:**

i. **Violation of “Must Provide” Principle:** TRAI introduced the principle of must provide to ensure broadcasters provide content to all distribution platforms on a non-discriminatory basis. However, it becomes inapplicable in cases where the same broadcast content (as shown on registered distribution platforms) is being carried over broadband as a medium.

ii. **Violation of MIB Downlinking Policy:** As per MIB’s Downlinking Policy, the broadcaster is under an obligation to provide services only through registered DPO’s (such as DTH providers, etc.). By providing broadcast content to unregistered digital distribution platforms, the broadcasters are violating the Downlinking Policy which needs to be addressed by MIB and TRAI.

iii. **This anomaly leads to risks** such as exclusionary and discriminatory impact for subscribers who may not be able to access same broadcast content on their choice of delivery platform viz. **same broadcast content is priced differently across two platforms i.e. DTH & Wireline/ Wireless**. This

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goes against the basic tenet of NTO, which promotes the consumer interest, by providing real and effective choice to the consumer.

- iv. **In-fact the situation worsens if a single entity secures exclusive content and distribution rights of a popular broadcast programming and bundles it for its own subscribers. Regulatory oversight is necessary on all the below situations:**
- Content acquired may only be provided to its own customers on wired/wireless broadband & rest of the subscriber universe will straightaway get excluded from having opportunity to access such content – **defeating must provide principle.**
  - Full end control of both broadcast content and distribution by a single entity – **defeating MIB cross-holding restrictions.**
  - Show the same content at arbitrary pricing norms on a digital platform – **defeating the TRAI NTO Tariff regulations.**

The fundamental principle and objective behind any regulatory framework is to create a non-discriminatory, level playing field for sector's overall growth. Furthermore, any regulatory framework needs to keep pace with the advancing technology and market dynamics.

In this background, Airtel believes that there are specific regulatory interventions that are required, failing which there is a grave risk of market failure staring the regulated DPOs, and also detrimental impact on the consumer.

**In summary**, these action items (elaborated in detailed response in subsequent sections) are recommended below:

- ✓ Regulatory framework must include all modes of delivery of broadcast content across all platforms irrespective of underlying technology used.
- ✓ Same content should be available across all platforms at same price – pricing parity irrespective of technology.
- ✓ Bring regulatory and licensing parity inter-se regulated DPOs (DTH versus DD Free Dish) and between DPOs and the unregulated digital platforms delivering broadcast content (through an application) from a carriage perspective, irrespective of the underlying delivery medium (wireless, wireline, Fiber, Satellite or combination of two medium), *inter-alia*:
  - a. License Fee parity amongst all
  - b. Tariff regulation (NTO) applicability for same content
  - c. Regulation of principle of “must carry, must provide” at “same price” equally on all
  - d. Guidelines for Downlinking of Television Channels must be enforced on and not be allowed to be violated by applications delivering broadcast content through broadband.
- ✓ Apply the legal framework of cross-media ownership (vertical integration) to all platforms (including the digital platforms) irrespective of underlying technology.

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- ✓ The administrative aspect of underlying carriage licensing of DTH and other distribution platforms should be brought under DoT while the content should continue to be regulated with the Ministry of Information & Broadcasting (MIB).
- ✓ Ensure that access is not blocked by any one player in the value chain, so that there is transparency and a level playing field.
- ✓ There is no need for a unified spectrum management policy for broadcasting & telecom sectors and the same should continue to be separately managed i.e. auction for mobile access spectrum, and administrative regime for broadcasting, backhaul, and satellite communications. India should not deviate from the international best practices in spectrum assignment.

Airtel now provides its question-wise comments in subsequent sections.

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**Q1. Whether the present laws are adequate to deal with convergence of carriage of broadcasting services and telecommunication services? If yes, please explain how?**

OR

**Whether the existing laws need to be amended to bring in synergies amongst different acts to deal with convergence of carriage of broadcasting services and telecommunication services? If yes, please explain with reasons and what amendments are required?**

OR

**Whether there is a need for having a comprehensive/converged legal framework (separate Comprehensive Code) to deal with convergence of carriage of broadcasting services and telecommunication services? If yes, provide details of the suggested comprehensive code.**

**Airtel Response:**

**The present laws are not adequate to deal with the convergence of the carriage of broadcasting services and telecommunication services as they are not able to account for and reflect the changed market reality.** This is also well noted by the Authority itself, and we agree with the nuances captured in the paper.

Therefore, there is certainly a need for a comprehensive legal, licensing and regulatory framework to deal with convergence to bring in synergies to deal with the carriage of broadcasting and telecommunication.

To explain its submission, Airtel breaks-down this response into following sections:

1. Technological disruption and convergence blurring the differences in the market - necessitating converged regulatory framework.
2. Need for a Reformed Regulatory framework, *inter-alia*:
  - a. Extend the legal framework of “Must Carry – Must Provide” to digital platforms delivering broadcast content via broadband through an application.
  - b. Apply the legal framework of cross-media ownership – vertical integration: to all platforms irrespective of underlying technology.
  - c. Purview of the regulations of Tariff Order be extended to digital platforms delivering broadcast content via broadband through an application.
  - d. Guidelines for Downlinking of Television Channels must be enforced on and not be allowed to be violated by digital platforms delivering broadcast content via broadband through an application.

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I. Technological disruption and convergence have blurred the differences in market hence necessitating need for converged regulatory framework:

- a. **Several different technologies deliver the same customer experience:** From terrestrial broadcasting and analog cable to DTH services and online platforms, the carriage platform of broadcasting content has come a long way.

High speed 4G and 5G networks of telecom operators are today delivering content at such high levels of speed that they are rivalling what only fixed broadband or cable networks or DTH used to be able to offer until recently. These high-speed networks have also enhanced the reach and scalability of various digital platforms such that they are now able to offer a plethora of content over and above what they offered from linear channels, and which was otherwise offered only through the Cable or DTH platform.

In other words, the wireless and wireline technologies today are in the same league – as far as content carriage (delivery) and broadcasting is concerned – as traditional broadcasting platforms, e.g., DTH and Cable, and fixed broadband. Thus, the collision of all these carriage platforms offering similar content/linear channels and experiences has already reached to a significant level and will only escalate with much higher speed further as we progress with the fastest rollout of 5G services in the world.

- b. **The same network layer is providing access across the board:** With the digitisation of cable services, the MSOs and LCOs now have a fiber network through which they offer channels to subscribers. Similarly, fixed-line broadband services have seen a shift from the traditional copper to FTTH technology, thereby offering higher speed and support to the carriage of linear and demand content. Such connectivity, where fiber (and high-speed wireless broadband) is a predominant medium, has made the difference negligible in terms of cost between the various carrier services providing broadcasting content. Now, fiber has become the heartbeat of any and every access service, whether mobile or fixed line or cable.
- c. **New set of broadcasting distribution players:** With the proliferation of high-speed telecommunications and broadband networks in India, a new set of players have come into play in the broadcasting distribution services. These players (including broadcasters) have created their own digital platforms to provide content using high speed broadband networks (wireline, wireless, cable, etc.). These services have proliferated at a very rapid pace and become an integral part of the lives of large sections of Indians. Through these services, subscribers can avail of live broadcast channels as well as content available on the internet on their mobile handsets/computers or other digital display devices through an application (app).

Most content can now be cast on larger screens and through internet-enabled TV sets, essentially eliminating all differences between distribution platforms on wireless and wireline broadband and a registered distribution platform operator.

- d. **Linear content is available on a variety of platforms:** Today, broadcasters have created their own apps/websites to offer their own linear content over that of the telcos' networks and are pushing linear programming and content using Telco broadband networks. And, over the past few years,

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such digital consumption in India has increased to 204 billion minutes per month across all devices, indicating that integration of access technology and end-user devices is going hand-in-hand and the same content is being accessed through various mediums and viewed through all available devices.

- e. **Content consumption is similar across all devices:** The availability of high-speed broadband services, coupled with the launch of various digital platforms, has nullified the previous dependency on specific devices for watching specific content. Today, linear programming, live broadcasting and global and local content are being consumed across various screens (e.g., smartphone, PC, Smart TVs). For example, any sporting event say like IPL today is accessed through cable and DTH on TVs, through various digital platforms/ applications (via broadband) on iPads, through fiber and broadband on hotel screens, etc. The IPL has garnered in total an all-India (urban and rural) viewership of 405 million.

There is a clear fundamental shift that has taken place in content broadcast, accelerated due to the convergence of the distribution platform into **wireless and wireline broadband**. As per some estimates<sup>4,5</sup>, by 2025, it is expected that the **total screen count will reach about a billion with ~250 million television screens and over 750 million smartphone screens**.

Thus, the viewership of live content is shifting from traditional DTH/Cable platforms to those that operate using telco networks. **This indicates that convergence between broadcasting and telecom is already a reality, right here, right now.**

This convergence driven by platforms / applications delivering broadcast content via broadband and other digital platforms, has dynamically altered the consumer behaviour and content consumption patterns. The unregulated growth of linear TV content delivered through digital platforms has impacted the regulated DTH Industry (revenues, customer base and viewership).

**II. Need for a Reformed and Converged Regulatory framework:**

**Existing Framework on “Must Carry – Must Provide” must be extended to platforms/ applications delivering broadcast content through broadband:**

- a. Under TRAI’s **Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations<sup>6</sup> 2017** all broadcasters are mandated to provide their TV channels to every DPO on a non-discriminatory basis. This obligation prevents the broadcasters from discriminating amongst DPOs.

As per the Explanatory Memorandum, TRAI had introduced the principle of **must provide** for ensuring a level playing field and fair competition in the sector and ensuring the interests of consumers and service providers are protected. Relevant Extract reproduced below –

<sup>4</sup> <https://ficci.in/spdocument/23200/FICCI-EY-Report-media-and-entertainment-2020.pdf>

<sup>5</sup> FICCI-EY Report, 2021 ([https://assets.ey.com/content/dam/ey-sites/ey-com/en\\_in/topics/media-and-entertainment/2021/ey-india-media-and-entertainment-sector-reboots.pdf](https://assets.ey.com/content/dam/ey-sites/ey-com/en_in/topics/media-and-entertainment/2021/ey-india-media-and-entertainment-sector-reboots.pdf))

<sup>6</sup> [https://www.trai.gov.in/sites/default/files/Interconnection\\_Regulation\\_03\\_mar\\_2017.pdf](https://www.trai.gov.in/sites/default/files/Interconnection_Regulation_03_mar_2017.pdf), pg 83



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*“Any kind of exclusive agreements, whereby signals of popular TV channels can be denied to a competitor so as to promote the broadcaster’s integrated distribution network will affect fair competition and choice to the consumers. Similarly, entering into any understanding or arrangement by a DPO with a broadcaster or LCO which prevents other broadcasters or other LCOs to access the network of the DPO for re-transmission or to obtain signals of TV channels may be prejudicial to the competition. The Authority is of the view that any kind of exclusivity in distribution of TV channels is prejudicial for competition and hence should not be permitted and mandatory provisioning of signal is a meaningful step towards achieving the goal of fair competition and the interest of consumer.”*

- b. Today, due to the fact that certain applications (which deliver broadcast content via broadband) are vertically integrated with some major broadcasters, the same concern that was highlighted by TRAI in 2017 has emerged in the digital space. Most of the such applications are vertically integrated with different broadcasters, either directly or indirectly.
- c. Such broadcasters are reluctant to offer their channels to any other players in the digital side, which is impacting customer choice and fair competition. These vertically integrated broadcasters have incentives to not provide their channels/broadcast content to standalone distributors or selectively offer their channels to digital platforms at arbitrary pricing norms. This amounts to a violation of the ‘Must Provide’ rule of TRAI.

This anomaly should be addressed by extending the principle of “Must Provide” to all platforms involved in the delivery of broadcast content irrespective of the underlying technology used.

**Existing Legal framework on Cross Media Ownership – Vertical Integration**

- a. As a sectoral regulator, TRAI has ensured that a clear distinction is maintained between a broadcaster and distributor, by recommending cross-holding restrictions in the media sector to MIB. TRAI in its CP ‘Issues relating to Media Ownership’<sup>7</sup> recognised that:

*Vertical integration often manifests in the form of ills of monopolies viz. higher cost to the consumers, blocking competition, creating barrier to entry for new players to venture into the sector, deterring innovations, deterioration of the quality of service to the consumers in the long run etc. Vertically integrated entities may negotiate mutually beneficial deals amongst the integrated entities & at the same time put up offers for the same deals which would be deterrent to the business interests of entities which are not vertically integrated.*

- b. Consequently, the Government has introduced restrictions on the stake that can be held by a broadcasting and/or cable network company in a company owning the DTH platform and vice versa<sup>8</sup>. The restriction states as under:

*“1.4 The Licensee shall not allow Broadcasting Companies and/or Cable Network Companies to collectively hold or own more than 20% of the total paid up equity in its company at any time during the License period. ...”*

<sup>7</sup> [https://www.trai.gov.in/sites/default/files/CP\\_IRMO\\_12042022.pdf](https://www.trai.gov.in/sites/default/files/CP_IRMO_12042022.pdf)

<sup>8</sup> Guidelines for obtaining License for providing DTH Broadcasting Services in India, dated 15th March 2001,

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**“1.5 The Licensee company not to hold or own more than 20% equity share in a broadcasting and/or Cable Network Company. ....”**

- c. However, today, the restrictions with respect to vertical integration have not been imposed on DPOs such as platforms delivering broadcast content via broadband through an application, which are outside the purview of the regulatory ambit. This is despite the fact that such applications/platforms are providing the same services as a DTH operator. The Authority has acknowledged that, presently, digital content distribution platforms have established themselves as formidable platforms for distribution of video and media content.
- d. It is pertinent to mention in this context that the majority of digital content distribution platforms are owned by broadcasters themselves and, owing to the absence of any cross-holding restrictions, such broadcasters make the same content that is available vide the satellite channels, available on digital platforms. This gives them an unfair commercial advantage over other distribution platforms that operate under greater restrictions.
- e. This vertical integration between broadcasters and digital platforms ultimately adversely impacts the plurality of content for consumers, increases the possibility of arbitrary pricing for the same content and increases entry barriers for the competitors.

**Therefore, restrictions on cross-media ownership, including ‘vertical integration’, should be made applicable to distribution platforms irrespective of the underlying technology employed rather than imposing it on just on one part of the distribution industry. This will ensure that all players, irrespective of technology, operate in a level playing field.**

**Existing Framework for pricing under TRAI Tariff Regulations have kept pay channels on applications (delivering broadcast content through broadband) out of pricing regulation – makes it discriminatory for subscribers who pay DPOs for the same channel.**

- a. Today, broadcasters being bound by the **Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff (Amendment) Order, 2017** cannot offer their channels at prices lower than what they have offered to the subscribers of DPOs in terms of the Tariff Order.<sup>9</sup>
- b. Consequently, the act of the broadcasters by virtue of which their pay channels are available for access through applications (delivering broadcast content through broadband) at differential and comparatively lower prices/nil prices is in contravention of the prescribed regulations.
- c. **This anomaly has led to unequal access in terms of broadcasting content, i.e., content broadcast from DPOs gets covered under NTO and the licensing regime but no such regulation exists if the same content were to be broadcast through applications over broadband networks.**
- d. The said conduct is also discriminatory against the subscribers of the other DPOs (DTH) as those subscribers are being subjected to the payment of higher subscription costs, while the subscribers of these applications (delivering broadcast content through broadband) are receiving the same channels for negligible or much lower costs.

<sup>9</sup> [https://www.trai.gov.in/sites/default/files/Tariff\\_Amendment\\_Order\\_Eng\\_3032017.pdf](https://www.trai.gov.in/sites/default/files/Tariff_Amendment_Order_Eng_3032017.pdf)

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Therefore, the purview of broadcasting tariff regulations should be extended to the applications (delivering broadcast content through broadband) to the extent they are engaged in provisioning of same content as that of the DPOs.

**Existing Licensing Framework for Broadcasters: Not followed by platforms/ applications delivering broadcast content through broadband:**

- a. Under clause 5.6 of the **Policy Guidelines for Downlinking of Television Channels** dated 05th December 2011 issued by the Ministry (“**Applicable Licensing Framework**”), broadcasters are under a strict obligation to provide the signals of satellite television channels only to the registered DPOs, i.e., multi-system operators (MSOs)/ Direct to Home (DTH) operators/ Headend in the Sky (HITS) operators/ Internet Protocol Television (IPTV) operators.
- b. The deliberate act on the part of broadcasters to make licensed channels/ the content of such licensed channels available on either their own applications (delivering broadcast content through broadband) or on the platforms/ applications of other players is a clear violation of the Applicable Licensing Framework.
- c. Allowing applications (delivering broadcast content through broadband) to exhibit and transmit the same services without subjecting them to any licensing and regulatory conditions, unlike the DPOs, is clearly arbitrary and devoid of the interests of the consumers as well as the DPOs.

While MIB, DoT and TRAI regulate the existing distribution platforms, e.g., DTH, IPTV, MSOs, no such regulatory framework exists for the applications delivering and carrying same broadcast content through broadband. This has created an anti-competitive environment and non-level playing field for the DPOs.

**Therefore, Authority needs to establish and formulate a Licensing Framework for the platforms/ applications (delivering broadcast content through broadband) with appropriate and applicable conditions by virtue of which only such licensed platforms are allowed to remain operational.**

**In summary, to reiterate, we request the Authority’s urgent intervention, to ensure that:**

- **Regulatory framework must include all modes of delivery of broadcast content across all platforms irrespective of underlying technology used.**
- **Same content should be available across all platforms at same price – pricing parity irrespective of technology.**
- **Bring regulatory and licensing parity inter-se regulated DPOs and between DPOs (DTH versus DD Free Dish) and the platforms/ applications delivering broadcast content through broadband, from a carriage perspective, irrespective of the underlying delivery medium (wireless, wireline, Fiber, Satellite or combination of two medium), *inter-alia*:**
  - **Tariff regulation (NTO) applicability for same content**
  - **Regulation of principle of “must carry, must provide” at “same price” equally on all**
- **Guidelines for Downlinking of Television Channels must be enforced on and not be allowed to be violated by platforms/ applications delivering broadcast content through broadband.**

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**Q2. Whether the present regime of separate licenses and distinct administrative establishments under different ministries for processing and taking decisions on licensing issues, are able to adequately handle convergence of carriage of broadcasting services and telecommunication services?**

**If yes, please explain how?**

**If no, what should be the suggested alternative licensing and administrative framework/architecture/establishment that facilitates the orderly growth of telecom and broadcasting sectors while handling challenges being posed by convergence? Please provide details.**

**Airtel Response:**

**No.** The present regime of separate licenses and distinct administrative establishments under different ministries for processing and taking decisions on licensing issues is not able to adequately handle the issues arising from the convergence of the carriage of broadcasting services and telecommunication services.

Over a period of time, various technological developments in digital markets have resulted in the convergence of devices, services, and networks. **Convergence has taken place over the entire value chain – from underlying technology to service delivery / carriage to end-user. However, there is no parallel convergence on the governance side.** Like the multiple statutes separately governing the broadcasting and telecommunication services as previously discussed, the extant licensing and administrative framework is also compartmentalised. This gives rise to the following issues:

- a. **There is a single ministry for content regulation but two ministries for access licensing:** Currently, content regulation falls under the MIB and should continue to do so to provide guidance and censorship on all mediums as necessary. However, the access technologies are distributed under two ministries viz. MIB (DTH/Cable) and DoT (wireless and wireline broadband). The recent step of the Government to bring the online platforms under MIB has made it clear that the content/censorship will be under one ministry irrespective of the platform and Airtel fully supports that. It is, however, unusual that the access part will still continue to be governed by the MIB for one medium and DoT for another. This distribution of similar functions across multiple Ministries/Government Departments can lead to inconsistencies in policy approach, increased regulatory compliance costs to businesses, all of which ends up burdening the consumer eventually.
- b. **Licensing regime for DTH and telecom services is not unified:** Both telecom and DTH licences are granted under Section 4 of the Telegraph Act and for all satellite spectrum-related aspects. DTH operators deal only with the DoT. However, the DTH licence is governed by the MIB.

The DoT has recently carried out certain amendments in the Unified License in order to exclude non-telecom revenue (including revenue from DTH) from the definition of AGR. However, no parallel change has been brought about in the DTH license regime by the MIB although the DTH license is issued under section 4 of Telegraph Act and the LF is paid there also on the AGR basis. As a result, a single legal entity cannot operate both in both telecom and DTH as it would end up paying double licence fee on its telecom revenue (both to DoT and MIB) due to divergent Licence fee regime.

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Due to this fact, players who want to offer the benefit of convergence (Telecom & DTH) to customers by leveraging synergies existing networks and technology are unable to seamlessly offer bundled services and benefits to the consumers. **The consumers should not lose out on the synergistic benefits of bundling that convergence offers, and hence the TRAI should consider recommending this aspect in the new converged framework in the interest of consumer.**

In this context, a reading of the TRAI Act, together with the Statement of Objects and Reasons, would show that it was an Act conceived in the public interest, to protect the interests of both service providers, as well as the consumers. The interest of the consumers is therefore one of the paramount considerations when it comes to the authority or jurisdiction of TRAI, and it should form the cornerstone behind its regulatory framework.

Airtel reiterates that NDCP 2018 has recognised the importance of convergence in the telecom and broadcasting services and has enabled the infrastructure convergence of IT, telecom and broadcasting, establishing a unified policy framework for broadcast and broadband technologies and restructuring legal, licensing and regulatory frameworks so as to reap the benefits of convergence.

**Thus, Airtel requests that the Government create a sharper focus and an orderly separation between content and carriage by:**

- **Assigning the DoT to be a single department for all licensing requirements across access cum carriage platforms – Mobile, Broadband, Cable and DTH.**
- **Retaining the MIB as an umbrella body for all content regulation, management and appropriate censorship across all mediums with these platforms being covered under orderly rules to carry the same content.**
- **Bringing applications delivering broadcast content through broadband under the ambit of DoT and TRAI licensing and regulations for the purpose of ‘Must Carry – Must Provide’ and at same price.**

**Q3. How various institutional establishment dealing with –**

- (a) Standardization, testing and certification.**
- (b) Training and Skilling.**
- (c) Research & Development; and**
- (d) Promotion of industries**

**under different ministries can be synergized effectively to serve in the converged era. Please provide institution wise details along with justification.**

**Airtel Response:**

Please refer to the responses to Q1 and Q2. In addition, Airtel submits:

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Convergence has already taken place on the technology side. A single general-purpose network can provide all types of services – broadcasting, telecommunication and Information Technology-enabled services. Services are also becoming network-agnostic, with the same media types and formats and signaling protocols being used to establish sessions and deliver payloads. Further, a single digital device may be used to consume several different types of services. However, this technological convergence at network, service and device level is facing challenges in the absence of convergence at statutory, regulatory, licensing and administrative level. These regimes also need to be converged to keep pace with the technological convergence.

It is important that the Government take all the ancillary steps deemed necessary in order to fulfill the above objective of convergence, including synergising various institutional establishments under different ministries dealing with (a) standardisation, testing & certification, (b) training and skilling, (c) research and development, and (d) promotion of industries.

For instance, in cases of standardisation, testing and certification of ICT equipment, there are multiple agencies working in parallel – the Telecommunication Engineering Centre (“TEC”) under DoT, the Standardisation, Testing and Quality Certification and the Directorate and Controller of Certifying Authorities under MeitY, and finally the Bureau of Indian Standards. In a converged era, where the same equipment is being used to provide services in several sectors, having different set ups for setting standards, testing and certification creates confusion. All of these agencies should be working under a collaborative and unified framework so that a holistic, single framework governs various aspects.

**Q4. What steps are required to be taken for establishing a unified policy framework and spectrum management regime for the carriage of broadcasting services and telecommunication services? Kindly provide details with justification.**

**Airtel Response:**

While it is essential to converge the statutory, regulatory and licensing regimes for the broadcasting and telecommunication services, there is no requirement to establish a unified policy framework for spectrum management regime for different spectrum bands serving totally different needs. Instead, both the government and the regulator should continue to examine such issues on case-to-case basis while ensuring the growth of different services, technologies and not disrupting the existing network rollouts. It is crucial that India continues to follow the best practices for spectrum management and assignment for different user sectors as followed internationally.

For example, Satellite services primarily address different connectivity challenges – in areas where terrestrial networks have proven economic or technical limitations – and rather complement it, hence, should not be considered mutually substitutable. Apropos, the spectrum assignment and pricing approach for both must be treated differently. Globally too, administrative allocation of satellite spectrum is the only approach because a) satellite spectrum is given on a non-exclusive basis, and b) it being a shared resource, requires global coordination. Same is true for Broadcasting as well. Thus, any auction of satellite spectrum modelled on terrestrial method/ approach will dissipate the business case for Satellite communication and impact vision of bridging the digital divide. Moreover, there are multiple users of satellite e.g. VSAT / DTH / Broadcaster / Teleport. Hence, a unified policy of spectrum assignment such as auctioning the spectrum only for satellite communications would create a non-level playing field among various satellite spectrum users.

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Therefore, it is only the mobile access spectrum that should continue to be auctioned at reasonable price in line with global best practices, and, the other spectrum users like broadcasting, satellite, backhaul, DTH, Teleport should continue to be allocated the spectrum on an administrative basis.

From a perspective of spectrum management, the spectrum is already under management of DoT (the WPC wing). **Thus, the extant policies for spectrum management should be continued with.**

**Q5. Beyond restructuring of legal, licensing, and regulatory frameworks of carriage of broadcasting services and telecommunication services, whether other issues also need to be addressed for reaping the benefits of convergence holistically? What other issues would need addressing? Please provide full details with suggested changes, if any.**

**Airtel Response:**

In addition to the submission made in Executive Summary, and Airtel responses to Q1, Q2 and Q3, another issue which needs reparation is to do with the **exclusive content delivery platforms for popular content**.

Today, with convergence in technology, telecom networks can provide access to internet and broadcast content in addition to telecom services. In such a scenario, if a single vertically integrated entity – say a DPO / Carrier and content owner – owns the exclusive content & distribution rights of a popular programming, like any prime sports event, it may enter into agreements for preferential access to the digital content for its own customers and hinder competition.

Such vertically integrated entities can choose to –

- a. cause restrictions on the availability of content on other distribution platforms; or
- b. control the pricing of the content to discriminate against other distribution platforms; or
- c. charge higher prices from other distributors thereby increasing costs for their consumers.

This will ultimately **adversely impact the plurality of content for consumers and discriminate against them**. This concern should also be urgently addressed under the **principles of choice to consumer, non-discrimination and level playing field**.

Armed with sector specific regulations, TRAI is empowered to use its specialized knowledge to provide more effective remedy to any competition law issues that impacts both telecom & broadcasting alike.

**Therefore, Airtel requests urgent intervention of the Authority to ensure:**

- Regulatory framework must include all modes of delivery of broadcast content across all platforms irrespective of underlying technology used.
- No blocking of access of content by any one player in the value chain
- Same content should be available across all platforms at same price – parity irrespective of technology