



CASBAA Response to TRAI Consultation Paper on
Uplinking and Downlinking of Television Channels in India (No. 16/2017)

INTRODUCTION

CASBAA (formerly the Cable and Satellite Broadcasting Association of Asia) welcomes the opportunity to submit its comments on the Telecom Regulatory Authority of India's "Consultation Paper on Issues relating to Uplinking and Downlinking of Television Channels in India", Consultation Paper No. 16/2017 (the "Consultation Paper").

CASBAA is a non-profit trade association of 100 companies dedicated to the promotion of multi-channel television via cable, satellite, broadband and wireless video networks across the Asia-Pacific region. Our member companies operate and invest in 17 different Asian markets, and many of them are substantial cross-border investors; those that are not international investors themselves are the business partners of foreign investors. The members of CASBAA have extensive experience in building and creating television infrastructure and quality programming to meet the needs of this region's more than 500 million multichannel TV households.

Specifically, CASBAA member companies include prominent content providers, Direct-to-Home (DTH) operators, conditional access and middleware technology providers, and other technology providers active in the Indian market.

GENERAL COMMENTS

It is an appropriate time for India to review its policy guidelines relating to the uplinking and downlinking of TV channels in India, which are now more than 5 years old. First of all, it must be acknowledged that the existing uplinking/downlinking policy guidelines have been an important first step in the emergence of an Indian television broadcasting sector that is "vibrant ... with more than 880 permitted satellite TV channels, around 80 Teleports, 7 DTH operators, 1500 Multi-system operators and large number of cable TV operators."¹ TV penetration in India is now about 61%, and is expected to reach 72% by 2017. Digitisation of cable TV in India is at an advanced stage, with three phases already covered. And DTH subscriptions are growing rapidly, driven by content innovation and product offerings.

¹ Consultation Paper, para 1.2.

Participants in this industry include a plethora of local broadcasters, DTH platforms and video programmers, as well as well-known international programming channels such as HBO, National Geographic, the Disney Channel, beIN Sports and the BBC. This diversity has resulted in an incredible variety of news, sports, cultural, educational and entertainment programming choices being available to Indian consumers across the subcontinent, as well as the export of valuable Indian-sourced programming to the rest of the world. Indian viewers enjoy some of the widest content choices in the world, at one of the lowest price points, a testament to the effectiveness of Indian broadcasting regulations.

It is thus vitally important that any review of the uplinking/downlinking policy guidelines build upon and maintain those features that have created this “vibrant picture” in the Indian television broadcasting sector, *i.e.* “first, do no harm,” while seeking improvements that will encourage private investment and further diversity and growth in the sector. Doing so will increase the contribution of this sector to the growth of the Indian economy, expand markets domestically and internationally for India’s creative industries, and expand programming choices for Indian consumers. CASBAA also believes in the promise of a “New India” presented by the Honourable Prime Minister Shri Narendra Modi, and would want to see his idea of “reform, perform and transform” embodied in the new regulatory construct governing the broadcasting sector.

In general, CASBAA believes that: (i) consumers benefit from diversity and access to innovative services offered by global networks, and (ii) true and lasting economic benefit to India comes from marketplace competition that generates jobs and supports growth in other industries down the value chain (*e.g.*, advertisement, content creation, etc.). Both of these objectives are achieved by encouraging industry investment in serving the Indian public, including investment by foreign satellite operators. TRAI should therefore support easing licensing and other regulatory barriers that deter growth in India’s broadcasting sector.

COMMENTS ON SPECIFIC ISSUES AND PROPOSALS IN THE CONSULTATION

On the specific issues and proposals raised in the Consultation Paper, CASBAA’s responses are set out below.

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

(Consultation Paper, para. 2.15).

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.

The Consultation Paper does not clearly explain what would be the goal of the mooted redefinition, so it is difficult to assess the concepts. We note that “News and Current Affairs” TV channels are currently not required to carry any particular percentage of news content; some such channels in fact broadcast mostly general entertainment programming, with only a few minutes of news each hour. Therefore, the definition is not binding upon such channels, which are free to change their programming mix.

While CASBAA sees no need to change the definition of “News and Current Affairs Channels”, it nevertheless notes that the “Non-News and Current Affairs” category suffers from a lack of precision in the definition of what constitutes “current affairs.” Such channels may feel obliged to avoid programming that might touch upon issues of current interest, and happenings or events in the society. This is, in our view, an unnecessary restriction on the creative license normally allowed such channels. We would support a clearer and more inclusive definition of “Non-News and Current Affairs Channels,” to clearly delineate news content from entertainment content touching on current events, and allow greater levels of knowledge-based programming.

Net-worth of eligible companies (Consultation Paper, para. 2.22).

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.

CASBAA urges the TRAI to take care not to create further entry barriers for serious players; financial backing/capability is not the only indicator of seriousness, capability or likelihood of success in carrying out quality broadcasting activities. A balance needs to be maintained between ensuring adequate financial backing of TV broadcasting ventures and enabling competitive entry by new voices in the marketplace.

To the extent the Government of India is concerned about the “hawking” or “trading” in speculative licences (see MIB Reference, Issue 8), setting high net-worth requirements would not necessarily address this concern. Making it *easier* for new entrants to obtain a new licence (*e.g.*, by simplifying the process) may actually do more to deter parties from obtaining a licence for speculation – *i.e.*, “hawking” or “trading” – in the secondary market. There is only value in “hawking” or “trading” a speculative licence on the secondary market if it would otherwise be much more difficult and costly to obtain a new licence from the proper authority. Of course, once a licence has already been operationalized, there should be little or no concern about hawking or trading in the licence, since it is already being used to provide service to the public.

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

CASBAA does not see the utility of changing the net worth requirements; such changes could create undesirable barriers to entry in the broadcasting sector.

Processing fee for application (Consultation Paper para. 2.24).

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.

CASBAA expresses no strong view on this issue, other than to caution against imposing excessively high barriers to entry for competitive entry by new channels, whether they be by new or established companies. CASBAA recommends fixed and cost-based fees, that are reasonably related to the

administrative costs of the regulatory activity. In this case, the non-refundable processing fee could be set based on a reasonable estimate of the costs of processing applications.

Grant of license/ permission for Satellite TV Channels (Consultation Paper, para. 2.37).

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.

No. An auction is most often and appropriately used to allocate a scarce resource among competing parties, with the winning party getting to use that resource to the exclusion of others. In the case of general uplinking/downlinking of satellite TV channels, however, there is no “scarce resource” that needs allocation and no inherent “exclusivity” required for the industry and market to operate.

There is no technical reason that would preclude multiple uplinkers in a given area from being licensed to use the same frequencies but on different satellites. On the downlink, satellite TV distribution actually relies on multiple reception sites, sometimes in the same area, being able to downlink on the same frequency from a given satellite. Those reception sites may be owned or operated by parties, such as cable operator(s) or DTH provider(s), that are distinct from the party operating the uplink, such as a teleport operator or a video programmer. All of those reception sites will need access to the same downlink spectrum at the same time.

In such circumstances, an auction will not be feasible. In the absence of scarcity or exclusivity, auctions will not generate significant proceeds. The introduction of artificial scarcity or exclusivity through regulatory means in order to create the conditions for a revenue-generating auction will only distort the currently vibrant Indian TV broadcast sector, with no commensurate benefit. The country, the Indian broadcasting sector, and consumers of Indian broadcasting content in India and abroad would all be better served with a system of cost-based administrative fees for such licences.

The auctioning of satellite TV licences will also reduce licensing efficiency and flexibility because the allocation of new satellite TV licences will only be permitted according to the time frames set by the Government for auctions, which to ensure genuine auction by more than one party would necessarily be less frequent than is currently the case. That will mean that market players will be locked into existing arrangements between auctions.

Finally, CASBAA would note that utilizing space spectrum for uplinking/downlinking and use of satellite transponder capacity are inter-related and interdependent; therefore, it is not technically feasible to auction individual legs as it involves different parties. While one leg may be available, the other might not. Both parties may (individually) face challenges relating to regulatory, licensing, coordination and technical limitations. Furthermore, an auction of individual legs would eventually increase additional operational cost that would indirectly impact end-users.

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.

As noted above, satellite TV broadcasting – anywhere in the world – involves an uplink controlled by one party, with the corresponding downlinks being received by many different parties, including cable companies, broadcast stations, DTH operators, etc., dispersed over a wide area that often

includes many countries. In fact, it is this efficient point-to-multipoint use of spectrum that drives the economics of satellite TV broadcasting and makes it attractive. It is difficult to see how auctions of uplink or downlink spectrum, or of transponder capacity, would improve on this set of arrangements, while it would be easy to see how auctions might negatively disrupt such arrangements.

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.

No, auctions are not feasible for the reasons described in the answers to 4.5 and 4.6, above. In addition, it is not feasible to auction resources which are not fully within the Government's control. Resources used to broadcast a satellite TV channel today (uplinking and downlinking spectrum, coupled with a satellite transponder) are only partially within the control of the Government, which is constrained by ITU allocations of frequencies, assignment of orbital slots, and requirements to fully coordinate with the orbital resources of other countries. Thus, it is not feasible to auction TV channels without restricting the use of foreign satellites and the uplinking of TV channels from outside the country. This would be inadvisable for the reasons set out in the answer to 4.8, below.

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?

No. Restricting the use of foreign satellites just so an auction can be conducted would be a most undesirable outcome. As noted above, the Indian broadcasting sector has flourished in no small part because of the ample and competitive supply of satellite capacity – both foreign and domestic – made available for broadcasting purposes under the existing policy guidelines. Indeed, investments in foreign satellite capacity over India have contributed mightily to the growth in this sector to date. An attempt to restrict use of foreign satellites now would cause immeasurable harm to this currently “vibrant” sector.

Since the inception of satellite television distribution in India more than four decades ago, the availability of foreign satellite capacity has played and will continue to play an important role in the emergence of the vibrant Indian television broadcasting sector noted in the Consultation Paper. The only reason advanced for considering restrictions on the use of foreign satellites is to enable auctions of satellite TV channels. As explained above, such auctions are not feasible and likely to be hugely disruptive and costly. The disruption and cost of auctions would only be compounded if accompanied by a requirement to move the many TV channels on foreign satellites today onto Indian satellites. Potentially hundreds of uplink antennas and many thousands of downlink antennas throughout the country would need to be repositioned. It would also likely lead to less efficient use of resources as, for example, previously multiplexed Indian and non-Indian feeds on a single satellite would need to be separated and uplinked via another satellite using another antenna, likely requiring the use of more spectrum at greater cost. Many channels also use the same satellite feeds to serve the Indian diaspora across West Asia and South East Asia, while ensuring compliance with Indian broadcasting rules. Channels should have the choice to choose the technical/satellite solutions that meet their specific commercial needs, as long as they are maintaining compliance with Indian broadcasting regulations on content. Licensing policies should facilitate these arrangements, and foster non-discriminatory and platform-neutral operations.

In addition, continued access to an ample and competitive supply of domestic and foreign satellite capacity over India is essential if the Indian broadcasting sector is to grow, and if India is to attract the desired foreign investment in the sector. The Indian broadcasting sector is a sunrise sector for the economy; it is on the cusp of a strong phase of growth, backed by rising consumer demand and improving advertising revenues. The Foreign Direct Investment (FDI) inflows in the Information and Broadcasting sector (including Print Media) in the period April 2000 – March 2016 stood at US\$ 4.98 billion, as per data released by Department of Industrial Policy and Promotion (DIPP). Furthermore the Government has been steadily liberalizing the FDI framework for this sector to encourage the greater investments required to enable further digitalization of the sector. Restricting use of foreign satellites would both dampen growth and run counter to the direction of India's FDI policies for the Indian broadcasting sector.

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

CASBAA would recommend simplifying and streamlining the present administrative system of granting licences. The present system has succeeded in creating a vibrant and competitive TV broadcast sector in India, but it can certainly be improved by, for example: (i) reducing processing times; (ii) reducing the number of separate licences or approvals that may be required for a given activity; (iii) eliminating duplication; (iv) simplifying requirements; and (v) making outcomes more predictable.

A streamlined, stable, transparent, prompt and more predictable licensing system will lay a solid foundation for future growth in this important sector of the Indian economy. In response to the TRAI's recent consultation on "Ease of Doing Business," CASBAA expressed support for the concept of an effectively implemented "single window" licensing mechanism, and we continue to believe that the "single window" could be the foundation for a better way to use digital procedures to license satellite TV channels than the present procedures.

Characteristics of an effective "single window" system, in our view, would include features such as:

- Online filing of applications at MIB (or a future converged regulator).
- Reduction in the number of different Ministries/Departments involved in the licensing process.
- Distribution of dossiers to the different Ministries/Departments involved should be done by intranet, and comments or approval received via intranet.
- Clear timelines and processing benchmarks that would be applied to each step of the process, in order to make it more predictable. An agency might, for example, be given a reasonable 15-day period to approve an application or – where it has well-founded doubts about an applicant – it could issue a statement of objection, and require further time. (Such objections should not be tolerated as routine ways of handling all applications; they should be exceptional.) In the absence of a well-founded objection, MIB should have the authority to move forward with the license. Maintenance of the benchmark timelines even for, say, 90% of applicants would achieve greatly improved results for the vast majority of business applicants.

Entry Fee and License fee (Consultation Paper, para 2.53).

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.

Fees for granting satellite licenses should be levied on a non-discriminatory basis. CASBAA recommends cost-based fees that are reasonably related to the administrative costs of the regulatory activity. Most communications regulators around the world set administrative fees in accordance with this principle, and for India to adopt this principle would be very much in keeping with the Government's desire to improve the ease of doing business.

Granting licenses should not be used as a means for increasing revenue; that imposes disproportionate burdens on applicant companies. It should be remembered that the revenues earned by licensees are subject to other taxes, such as Corporate Income Tax, which will ensure that India captures a substantial share of the benefits derived by the licensee from its activities in India.

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.

Cost-based fees of the kind mentioned in the Answer to 4.10 can be implemented on a fixed, variable, or semi-variable basis. For instance, the total costs of regulating a particular subsector of broadcast licensees could be totalled up and then apportioned among the licensees equally as a fixed fee. As one alternative, the total costs of a particularly regulatory activity could be apportioned based on the revenues earned by each licensee as a variable fee.

CASBAA would recommend the fixed fee approach, as it would be simpler to calculate and administer than the variable fee. A fixed-fees approach offers simplicity and predictability for both the government and industry, and furthermore would not require licensees to disclose sensitive income and revenue information. We would strongly discourage excessive fees calculated as a percentage on Annual Gross Revenue (AGR), especially when not reasonably related to the costs of regulation. Such fees would, at best, impose an unnecessary drag on an important sector of the Indian economy with major growth prospects or, at worst, strangle such growth by dissipating the returns on investment that would otherwise be expected.

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?

No uplink license fee is necessary for TV channels uplinked from abroad. There is no administrative cost associated with regulating uplinks abroad, as such activity is regulated by the country in which the uplink facility is located, and for which the uplinker has paid the applicable regulatory fees. Downlink fees should be based on costs of regulating the activity in India, in line with our recommendations under 4.10 and 4.11, above, and should be the same, irrespective of the licensing location.

An international programmer's choice of uplink location will depend on many factors other than licensing fees. If India's goal is to encourage uplink facilities to be located in India, it may obtain better results by establishing a more streamlined, stable, transparent, prompt and predictable licensing framework for uplinks, uplinked content, and uplinking services in India. Certainly, given India's market size and central geographic position within and between major markets, an improved licensing system with shorter, and more predictable licensing times and outcomes would increase incentives for more international programmers to establish their uplinks in India.

One other aspect bears mentioning: the role of foreign uplinks in meeting demand for niche content. We note that India currently benefits from international programming uplinked from outside of India, downlinked and distributed locally via various broadcasting platforms. Imposing an uplink fee for international content such as live sport and niche TV channels with non-India uplinks may drive them to exit the Indian broadcast market, to the detriment of the Indian viewer and the international diaspora residing in India.

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)?

CASBAA recommends cost-based fees – preferably fixed fees – that are reasonably related to the administrative costs of the regulatory activity.

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?

CASBAA recommends cost-based fees – preferably fixed fees – that are reasonably related to the administrative costs of the regulatory activity.

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

CASBAA expresses no views on this issue.

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

CASBAA expresses no views on this issue.

Encryption of TV channels (Consultation Paper, para. 2.61).

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.

Although internationally many satellite TV channels are broadcast in unencrypted form, given the specific circumstances in India, CASBAA believes that a mandate for encryption of all channels makes sense. In India the issue is tied to the Government's unusual sports sharing regulation.

- CASBAA has received complaints from TV distributors in other countries that unencrypted Doordarshan broadcasts from India were being picked up and relayed to consumers by

unscrupulous cable operators there, even though these broadcasts contained sports content that had been licensed to other operators in the country of reception.

- Within India, sporting events are required to be shared with Doordarshan, but unencrypted broadcast of these events on the DD Freedish platform results in widespread piracy by other TV distributors, eroding the value of the intellectual property rights acquired at major cost from the sports leagues.

This piracy could be squelched by requiring all channel operators – including Doordarshan -- to encrypt their satellite channel broadcasts.

This does not mean that the distinction between “pay” and “free” channels should disappear; on the contrary, CASBAA supports allowing channel operators to determine their business models. But “free” channels can be “free to view” without being “free to air” (*i.e.*, unencrypted.)

Encryption would also have the benefit of increasing the ability of channel operators to accurately assess their subscriber base, which would benefit advertisers as well as channel operators.

Operationalisation of TV channel (Consultation Paper, para. 2.69).

4.18 Is there a need to define the term “operationalisation 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.

CASBAA notes that the financing and plans to successfully operationalise a TV channel often depend on timely grant of license applications. Long, unpredictable delays in processing and grant of such licences have great potential to significantly disrupt plans for operationalising a start-up TV channel, whether or not concerns about the seriousness of the applicant and/or speculation in licences are raised by or to the regulator.

Moreover, there are also circumstances which do not rise to the level of force majeure, but which are beyond the licensee’s control and affect operationalization of a channel. We suggest that the operationalization definition should take better account of this possibility, and that the regulator in particular should provide licensees an opportunity to explain why penalty is not warranted.

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?

CASBAA expresses no strong view on this issue, other than to note that TV channels that go off the air for an extended period will almost certainly be commercially punished by viewers, advertisers and subscribers, and therefore a penal action as an incentive for ensuring continuity of service would probably be superfluous. Given the commercial incentives involved, we do not see a need for very tight time-frames – a channel should be allowed a few weeks’ leeway to deal with interruptions. TRAI’s measures in this regard should be aimed at incentivizing an early return to service, and not “punishing” the offender.

(CASBAA takes the TRAI's reference to "penal" actions as including fines, reduction of licence period and ultimately loss of the license, and not primarily criminal sanctions.)

Transfer of License (Consultation Paper, para. 2.78).

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.

The ability to transfer existing licences on the secondary market, subject to reasonable Government oversight, is generally healthy and likely to lead to more efficient allocation of resources for the reasons stated in the Consultation Paper. CASBAA is therefore of the view that licenses should be transferable. The media industry is undergoing waves of consolidation and recombination, not only within India but everywhere in the world. Mergers, de-mergers and spinoffs are aimed at making companies more efficient, and ensuring their survival and future prosperity. License transfer rules should be liberalized and brought into alignment with the provisions of the Companies Act so as to facilitate that process.

CASBAA would note that concerns about media concentration for news channels can also be addressed by making it easier to get new licences for such channels.

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.

CASBAA expresses no strong views on this issue.

Concerns about hawking or trading in licences may be addressed more effectively by making new licences easier to get. There will be less value in speculating in licences, and less incentive to buy a licence on the secondary market, if anyone seriously wishing to launch a new TV channel can just as easily get a new licence from the proper authorities.

Thus, CASBAA proposes that making it easier to get new licences would reduce the number of speculative transactions and make it more likely that applications for approvals to transfer licences will be for the transfer of legitimate businesses. Furthermore, adoption of an inflexible lock-in period would limit legitimate business transactions that may ultimately benefit the public interest. Should TRAI nevertheless adopt a lock-in period or other restriction, the Authority should provide a meaningful opportunity for licensees to show that waiver of the lock-in period would be in the public interest.

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?

See the Answer to 4.21, above.

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.

See the Answer to 4.21, above.

CASBAA understands that “trading” in licenses that involves actual transfer of control is already subject to prior MIB approval.

For activities that fall short of a transfer of control, such as the outsourcing or sub-leasing of licences, licensees should be reasonably free to organize their business as they see fit – whether by hiring employees or contracting with other businesses to conduct their operations – so long as the licensee remains legally responsible for all of activities conducted under its license.

The licensing system should not lock broadcasters into a single vision of how a TV channel should be run. Reasonable latitude for innovation is critical, especially when existing business models are already being challenged and disrupted by new media technologies, services and business models.

Meaning of a teleport (Consultation Paper, para. 3.6).

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.

CASBAA is not convinced that any definition of a teleport is useful, beyond those in common use: the general definition of a teleport is a centre providing interconnections between different forms of telecommunications. The Consultation Paper’s question is in reality directed at whether “it may be prudent to define a teleport using one satellite.”

In CASBAA’s view, this is really a question about administrative efficiency. We believe that the proposal to limit teleports to serving a specific satellite is overly restrictive and would only increase the burden on the Government and licensees of keeping track of and complying with licence obligations. In our view, it would be more efficient administratively to enable a single teleport licence to cover multiple satellites, and for such a licence to be added to or subtracted from time to time with the regulator’s approval.

Entry fee, Processing fee, and License fee for teleport license (Consultation Paper, para. 3.13).

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.

CASBAA recommends cost-based fees – preferably fixed fees – that are reasonably related to the administrative costs of the regulatory activity. See the discussion above under paras. 4.10 to 4.16, above.

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.

CASBAA recommends cost-based fees – preferably fixed fees – that are reasonably related to the administrative costs of the regulatory activity. See the discussion above under paras. 4.10 to 4.16, above.

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.

CASBAA recommends cost-based fees – preferably fixed fees – that are reasonably related to the administrative costs of the regulatory activity. See the discussion above under paras. 4.10 to 4.16, above.

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

CASBAA recommends cost-based fees – preferably fixed – that are reasonably related to the administrative costs of the regulatory activity. See the discussion above under paras. 4.10 to 4.16, above.

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

CASBAA expresses no views on this issue.

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

CASBAA expresses no views on this issue.

Restriction on the number of teleports (Consultation Paper, para. 3.19).

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.

There is no basis for restricting the number of teleports in India. A vibrant Indian television broadcasting sector has evolved without any restrictions on the number of teleports, and there is no evidence to indicate that a limit is required to address a dysfunction in the market or any other perceived public harm.

In a dynamic and evolving market, it would be particularly difficult for a regulator to derive an “optimum” number of teleports. The cost-benefit-risk calculus does not favour setting any limit at all. If the limit is set too high, the industry is likely to behave as if there was no limit. If the limit is set too low, however, then prices for teleport services from already licenced providers will likely rise – artificially benefitting only those licenced providers – and the expected growth of the Indian television broadcasting sector would likely be inhibited.

Moreover, to the extent that the MIB's concern is about speculative "hawking" and "trading" in licences, changing the rules to limit the number of licences is likely to increase incentives for such speculation, since serious newcomers will not be able to obtain new licences once an arbitrary quota has been reached.

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?

Yes. As discussed in the Answer to 4.31, above, setting the "wrong", too low, limit on the number of teleport licences could well lead to increased prices, as well as reduced availability and/or quality of teleport services. In addition, setting a limit on the number of teleport licences could introduce an inflexibility into the current system, especially if the definition of "teleport licence" were also to be limited to communications with a single satellite. Once the quota of licences were issued, it would become very difficult for teleports to add services on new satellites, as no new licences would be available.

Location of teleports (Consultation Paper, para. 3.22).

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.

There are already a number of constraints on teleport locations, including availability of land, land use controls, and the frequency licensing and SACFA site clearance process. The Consultation Paper articulates no rationale for additional restrictions that would not duplicate or complicate any of these.

The creation of "teleport parks" creates its own risks of reduced resiliency in the event of natural calamity etc., as noted by the Consultation Paper.

CASBAA believes it is most undesirable to impose artificial constraints on the numbers or location of teleports; a consequence of such limitations may be to greatly increase backhaul fees paid by regional broadcasters, as they may be far from the "approved" teleports. This would reduce the volume of State/regional language programming broadcast.

Optimum use of existing teleport infrastructure (Consultation Paper, para. 3.26).

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

There are already adequate incentives for optimal use of existing teleport infrastructure in the market and in the regulatory framework.

In terms of market incentives, the construction of an uplink antenna involves a significant fixed cost, and licensees have strong incentives to maximize the yield from that investment through the use of efficient compression and modulation techniques. There are also regulatory incentives to make efficient use of teleport infrastructure. The per-MHz fee associated with the spectrum licences needed for teleport operations give licensees strong incentives to maximize the yield from every MHz of spectrum.

The use of these techniques, however, does come with trade-offs. The use of more aggressive modulations may come at the expense of availability, and the use of compression could come at the expense of picture quality. It can also be costly to switch from today's "state-of-the-art" modulation and compression to tomorrow's "state-of-the-art" given often substantial installed base and switching costs, including for example the need for dual illumination / parallel service provision for a transitional period. Decisions about these trade-offs should be left to the licensees, who are best placed to balance yield, available, quality, cost and timing in the context of a competitive and differentiated marketplace.

Unauthorised Uplink by Teleport operator (Consultation Paper, para. 3.32).

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.

The Consultation Paper mentions multiple agencies that could be involved in monitoring to detect unauthorized uplinks. CASBAA has no strong views on how this might be accomplished; we would only note that any such monitoring system would be facilitated if a single licensing window were established, and a single database established for licensing details of all teleports and television channels.

Any other issue (Consultation Paper, para. 3.37).

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

1) As noted above, the existing administrative system of licensing has resulted in a vibrant Indian television broadcast sector. Nevertheless, the existing system could be improved by for example (i) reducing processing times, (ii) reducing the number of separate licences or approvals that may be required for a given activity, (iii) eliminating duplication, (iv) simplifying requirements, and (v) making outcomes more predictable as far as possible. An open, streamlined, stable, transparent, prompt and predictable licensing system will lay a solid foundation for future growth of this important sector in India.

2) India's television sector has benefitted greatly from being able to make use of all available satellite capabilities, including those offered by foreign satellites over India. In this connection, CASBAA would urge TRAI to maintain such access and to consider allowing greater use of foreign satellite capacity. (In this connection, we would refer the TRAI to our submission on Input for the National Telecom Policy 2018.)

3) We would add one other consideration: in the consultation on "Ease of Doing Business", CASBAA supported establishment of a new licensing category (alongside "News and Current Affairs Channels") to cover sports channels. The major reason for our suggestion was to facilitate the access of sports channels to utilize uplink/downlink facilities from widely disparate locations for live feeds of events. As the present Consultation Paper considers issues relating to uplinking and downlinking, we will avail ourselves of the opportunity to suggest that in its recommendations on this subject, the TRAI should also address ways to facilitate use of temporary uplinks for live feeds of events, and specifically sporting events.