

Email

Counter-Comments on behalf of DL GTPL Cabnet Private Limited to the Consultation Paper on Review of Regulatory Framework for Broadcasting and Cable Services dated 08.08.2023 ("CP")

From : manishsavani@dlgtpl.com

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Subject : Counter-Comments on behalf of DL GTPL Cabnet Private Limited to the Consultation Paper on Review of Regulatory Framework for Broadcasting and Cable Services dated 08.08.2023 ("CP")

 2 attachments

To : Anil Kumar <advbcs-2@traigov.in>, V.K. Aggarwal <jtadvbcs-1@traigov.in>

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Respected Sir,

At the advent, we would like to thank the Authority for providing us with the opportunity to share our counter-comments and to respond to specific comments as have been submitted by other stakeholders in relation to the CP. We also humbly appreciate and acknowledge the efforts that the Telecom Regulatory Authority of India (TRAI/ Authority) has, vide this CP, put forth in initiating and facilitating deliberation on certain issues that the Authority perceives as relevant for promoting an orderly growth of the broadcasting and cable television sector.

We further state that while we are significantly aligned with the views that have been advocated and submitted by All India Digital Cable Federation (AIDCF), more particularly complete forbearance on retail tariff, we state that for devising a sustainable regulatory framework, it is imperative for the Authority to first take a coherent view on all technologies/platforms, which deliver the same result/ same services (*albeit by different medium*), like for instance, deliver the same content as that of the licensed satellite channels to the end consumers.

TRAI has let certain privileged platforms like OTT and Free Dish etc. (collectively "Privileged Platforms") flourish by failing to exercise jurisdiction and thus illegally and illogically keeping them outside its regulatory purview. The Authority would acknowledge and agree that there has not been any attempt to remove the deliberate artificial distinction between those who deliver content via a licensed distribution platform (*multi system operators (MSOs), Direct-to-Home (DTH), Internet Protocol and Television (IPTV) and Headend in the Sky (HITS)*); as against via internet (Over-the Top (OTT) players and other open-sourced websites) or through the medium of Free Dish. It is unfathomable as to how the Authority has ignored the fact that the level playing field is being grossly vitiated by rigorous regulations that have been imposed on one segment and the other segment has been left completely unfettered (*both in terms of licensing conditions and regulatory framework*).

The Authority has itself acknowledged that presently, Over the top (OTT) platforms have established themselves as a formidable platform for distribution of video and media content. According to Bain and Company, India's OTT platform users is poised to grow to a whopping 650 million users by 2025, growing over 24% on an annual basis from 2018-2023. (<https://www.bain.com/about/media-center/press-releases/2022/short-form-video-india/>) Content delivery through OTT has expanded by leaps and bounds over the past few years and there will be an estimated 470 million digital video viewers by end of 2023 (as per the Magnite India Research Report). Moreover, the subscriber base of Free Dish has also seen an exponential growth and presently stands over 43 million. The Authority would acknowledge that an increasingly and growing digital media environment, like that in the present times, gives internet users access to information from more and more sources, including the OTT platforms as well as various other open-source websites. The Authority would be well aware that presently both Free Dish as well as the OTT platforms are not adhering the regulatory regime as have been notified and enshrined by the Authority, despite them providing the same services as that of the DPOs. It is an admitted position that the number of subscribers of all the regulated platforms has consistently and significantly dropped under the new regime. Conversely, the number of subscribers of such Privileged Platforms has grown multifold. The reluctance of TRAI to exercise its jurisdiction over the broadcasters as well as such Privileged Platforms has for long created a non-level playing field and the same has been highlighted time and again to the regulator. The aforementioned approach of the regulator has now raised a question of survival for the regulated DPOs.

We further seek to bring the kind attention of the Authority on one other significant and crucial aspect regarding absence of licensing and regulatory regime of the OTT platforms. It is imperative to note in this context that while the transmission of satellite channels through the platforms of DPOs are heavily regulated vide the Regulations of Interconnection, Tariff and Quality of Services, the transmission of the said licensed channels and/or its content thereof, on the OTT platforms and Free Dish are neither adhering to the regulatory regime nor such platforms are subjected to any licensing framework. This definitely subjects the DPOs to an unequal regulatory regime and hence an urgent intervention is sought from the Authority to firstly establish and formulate a Licensing Framework for the OTT platforms with appropriate and applicable conditions by virtue of which only such licensed OTT platforms are allowed to remain operational in the country. Simultaneously, the purview of the regulations of Interconnection, Tariff Order and Quality of Service should be implemented without any exception to the OTT platforms as well as Free Dish as they are engaged in the provisioning of same services as that of the DPOs. Evidently, allowing the OTT platforms and Free Dish to exhibit and transmit the same services (*in addition to other diverse content on OTT platforms*) 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.

Resultantly, it is the broadcasters as well as Privileged Platforms who seem to be the only beneficiaries of TRAI's regulatory regime, at the cost of the DPOs and its subscribers.


As a regulator, the Authority ought to have maintained a level playing field but it appears that the regulator has turned a blind eye to the said existing position. We therefore urge that the Authority should forthwith intervene and look into the aforesaid issues and formulate a licensing framework for OTT platforms, ensure strict adherence of the applicable regulatory framework by the OTT players, Free Dish/ any emerging technologies that provide similar services as that of regulated DPOs and thus usher equal opportunities to all platforms for business growth and expansion.

Furthermore, Indian Broadcasting Digital Foundation (IBDF) has amongst others suggested that there should not only be a complete pricing freedom for the broadcasters to price their channels/bouquets but also the bouquets of the broadcasters should be carried by the DPOs without any alteration i.e. on as-is basis. In this regard we wish to state that the abuse of pricing freedom as well as the liberty to form bouquets by the broadcasters under the MRP regime (*by forming bouquets of few popular as well as majorly unpopular channels*) only has diluted the overall purpose of the regulator. The regulator has itself acknowledged the said aspect in several subsequent consultations as well as the amendments to the regulatory framework issued thereafter.

A-la-carte under the MRP regime, though a mandate, has merely become an unviable option both for the DPOs as well as consumers. Even the role of DPOs who were the aggregators of relevant content/channels has been ridiculed/curtailed to being agents of broadcasters and carriers of their irrelevant bouquets.

Hence, to address the said situation, the broadcasters should either be strictly prohibited from offering bouquets or alternatively the DPOs should be given an option to choose the channels from the broadcaster bouquets and pay proportionately for such channels.

**Thanks & Regards,
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