

entertainment network (India) limited

Corporate Office: 14th Floor, Trade World, D-Wing, Kamala Mills Compound, Senapati Bapat Marg,
Lower Parel (West), Mumbai – 400 013, India. Tel: 022 6753 6983.

Via Email

September 14, 2022

To,

Shri Anil Kumar Bhardwaj

Advisor (B&CS)

Telecom Regulatory Authority of India

Mahanagar Doorsanchar Bhawan

Jawaharlal Nehru Marg,

New Delhi-110 002

Email: advbcs-2@traf.gov.in and jtadvbcs-2@traf.gov.in

Sub: Counter Comments on the responses to the Consultation Paper dated July 21, 2022, on “Issues related to Community Radio Stations”

Dear Mr. Bhardwaj,

We, Entertainment Network (India) Limited (‘We’/ ‘ENIL’), would like to thank your good offices for providing us an opportunity to put forth our counter views to the submissions made by various stakeholders on the captioned subject. This gives us a chance to further clarify the rationale behind our primary submissions.

At the outset, we wish to reiterate our view that, if the suggestions given in the consultation paper as well as in the submissions by few stakeholders is implemented, it would amount to entry of commercially motivated organizations into the space of private FM radio broadcasting, through the back door. This can adversely impact the revenues of private FM broadcasters, have collectively paid in multiple crores to Government in license fees and infrastructure costs, since the inception of Phase I of private FM radio licensing regime.

We have reviewed submissions by various stakeholders. There are few contentions in some of the submissions, to which we wish to respectfully put down our counter views on certain issues as given below:

1. Section 8 Companies to be considered for eligibility for a Community Radio Station (CRS):

Majority of the submissions are against this express inclusion of Section 8 companies in the eligibility criteria for application for a CRS. However, there are couple of submissions which do support the said inclusion claiming inter alia that this may bring in professionalism in the management of the CRS. We strongly oppose this view for the reason that:

- a. This view neglects the basic purpose of formation of the CRS i.e., public interest of a community in a particular geography. This has also been rightly pointed out in the submissions by Mr. Mohit Dhanjani.

entertainment network (India) limited

Corporate Office: 14th Floor, Trade World, D-Wing, Kamala Mills Compound, Senapati Bapat Marg, Lower Parel (West), Mumbai – 400 013, India. Tel: 022 6753 6983.

- b. Secondly, the content of Section 8 companies will be thematic in nature viz. artistic, scientific, religious, due to the nature of these companies. Such thematic content which is their primary (and only) object i.e., art, commerce, sports, etc. will solely be distributed to a limited geography which will consist of heterogenous population, and for them this kind of content might be irrelevant. As such the CRS formed by such company may not serve its basic purpose at all.
- c. Also as rightly pointed out in few submissions (viz. submissions of Radio Rimjhim and Consumer Protection Association -Himmatnagar, Gujrat) there is no bar on Section 8 company having a ‘for-profit’ subsidiary, this may mean a back door entry for a ‘for-profit’ company to radio broadcasting and access to valuable frequency spectrum at negligible cost. Also ‘Not-for-profit’ companies are not the same as ‘non-profit’ organisations like local NGOs who serve local community interests and are not bound to serve public interest.
- d. In addition to the above, as stated in our primary submissions:
 - i. Section 8 companies also have in its ambit ‘**companies formed for promotion of a religion**’. Though not-for-profit, a CRS run by such company may potentially be used for creating communal disharmony.
 - ii. Government is giving spectrum, which is a scarce resource, to CRS owners at minimum cost. The proposal to allow section 8 companies to get CRS license would lead to giants like Infosys Foundation, Reliance Foundation, TATA Foundation, Reliance Research Institute, (which are some of the examples of Sec 8 companies registered under the Companies Act), securing such license without need to participate in auctions and spending large sum of monies in fees, infrastructure cost etc.
 - iii. Section 8 companies are allowed to amalgamate with other companies having ‘similar objects’ as per the Companies Act. This may create a situation where a company post obtaining a CRS license, merges with a bigger company, passing on the benefit of such license to the other company, thereby circumventing the ‘non-transferable’ nature of the CRS license.
 - iv. The music royalty charges payable by CRS to disseminate music is miniscule. Industry bodies like Phonographic Performance Ltd (PPL) and Indian Performing Rights Society (IPRS) (which control majority of music repertoire licensing in the country) is also negligible as compared to music royalty paid by private FM radio channels as illustrated with their rate cards, in our primary submission. This would even encourage section 8 companies related to big corporates as mentioned above, to apply for CRS license, pay music royalty at extremely low rates and use the CRS license to promote their own products/services which earlier it would do so by using inter alia, a private FM radio channel.
 - v. We therefore reasonably apprehend that Section 8 companies should not be eligible for operating a CRS, as this will simply reduce CRS to a back

entertainment network (India) limited

Corporate Office: 14th Floor, Trade World, D-Wing, Kamala Mills Compound, Senapati Bapat Marg, Lower Parel (West), Mumbai – 400 013, India. Tel: 022 6753 6983.

door entry tool to Radio Broadcasting for amplifying private interests rather than serving the community.

2. Term of License-

- a. We do not agree with the submissions proposing primary license term as well as renewal term of the license to be more than 5 years.
- b. Many of the submissions point out the fact that there are many CRS in the country which are non-operational wholly or partially. This is not only a clear wastage of valuable natural resource i.e., frequency spectrum but also a misuse of it.
- c. To rectify this situation, any grant of license should be limited to 5 years and there should be strict audits (at least every 6 months) to assess the amount of original content produced by a CRS, its relevance to the community it serves and time of operation of the CRS. Only the CRS which complies scrupulously to the license norms should be granted renewal on merits and not as a default rule.

3. Commercial Advertisement duration -

Many of the submissions support the suggestion of increasing the ad time per hour (which is currently at 7 min. per hour). We strongly oppose this view due to following reasons –

- a. We should not lose the sight of the fact that the permission to serve advertisement is not for profit generation but solely to meet the operational expenses of a CRS.
- b. In case a deserving CRS is in financial difficulty, the Government can provide aid to such deserving CRS on case-to-case basis. However, increasing the duration of permitted ad time is not a solution to the same.
- c. Increasing commercial ad time will slowly equate a CRS to a commercial private FM radio station. Particularly in areas with smaller geographies, there may not remain any difference between the two, resulting in an undue competition for commercial radio stations. This may in fact lead to operation of a commercial private FM radio station being rendered unviable in such areas, since there are limited advertisers and as such clients of both CRS and private FM broadcasters overlap resulting in loss of revenues. The private FM radio stations incur exponentially higher costs, both in license fees as well as infrastructure and overheads than a CRS. Such revenue loss may lead to shut down of private FM stations due to non-viability.

The reason provided in submissions by CRS operators supporting increase in current permitted commercial ad duration is sustainability of the CRS operations. In addition to Government support and monetary aids, this can also be addressed by way of synergies suggested by us in our primary submissions, between CRS and private FM radio broadcasters.

For example- a revenue share arrangement where a private FM player can help the CRS to procure their allotted limit of 7 minutes by extending coverage to its existing clients on CRS or lending of creative expertise by private FM stations for

entertainment network (India) limited

Corporate Office: 14th Floor, Trade World, D-Wing, Kamala Mills Compound, Senapati Bapat Marg, Lower Parel (West), Mumbai – 400 013, India. Tel: 022 6753 6983.

curating customised good quality programming for CRS to serve its community, in exchange of brand and other promotional support from the CRS can be considered.

- d. This will help the CRS to remain operationally viable and also augment the co-existence of private FM stations and CRS, consequently benefitting the common audiences that they serve. This will also avoid both competing against each other for advertisers especially in smaller geographies.
4. Lastly, we re-iterate our submission that no news or current affairs should be permitted for broadcast through a CRS, whether self-generated or sourced from AIR, as there are high chances of misuse of such permission, as noted by TRAI in its 2014 recommendations. Also, news and current affairs are entirely out of the purview of objects of a CRS.

We once again thank you for the opportunity provided by your good offices to put forth our counter views and suggestions on the subject and hope that they shall be given due consideration.

Sincerely,

For Entertainment Network (India) Limited



Prashant Ramdas
Vice President & Head-Legal