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21 Dec 2020

Mr. Anil Kumar Bharadwaj
Advisor (B&CS)
Telecom Regulatory Authority of India
New Delhi.

Subjects – Comments on Consultation Paper on Ministry of Information and Broadcasting (MIB) back reference on TRAI’s Recommendations dated 19.11.2014 on “Regulatory Framework for Platform Services” and MIB reference on TRAI’s Recommendations on “Platform Services offered by DTH Operators” dated 13.11.2019.

Dear Sir,

At the opening we want to highlight that, platform services are the foundation stone of Cable TV and MSO business. In the year 1989, Cable Operation business started with VCR channel (Platform Channel) and later on Pay Channel and FTA channels were started and added by MSO’s. Even though MSO’s kept on adding FTA and pay channel but the real identity of the MSO is still because of its Platform channels. Few of the points which needs to be highlighted before giving the pointwise reply to the consultation paper.

1. Live / Religious Content - MSO’s are streaming live content from all the major religious places in the city / state. In-spite of spending heavily on infrastructure and manpower, these Live channels are provided free of cost to the subscribers. Because of multiple religions and worship places, the number of Live channels are high and should be considered as community services rather than Platform channels.

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2. City Channels - Most of the MSO's are telecasting channels localised to the cities. The content consist of City happenings, Government Initiatives for betterment of city, problems face City residents, re-telecast movies in regional language and relevant to city etc. As no National or even regional Broadcaster focuses on city level, so these channels play a very important role in providing information relevant for the city residents. Same trend can be seen in Newspapers also and people devote more time to pages dedicated to local city than national news. As all the major MSO's are covering multiple cities from one headend, so the number of channels dedicated to cities are high.
3. NVOD content - In recent years, OTT has starting building up the market. It is pertinent to note that the OTT platforms are not governed by any specific programming or advertising code and hence, obscene content, uncensored content, pornographic content, content detrimental to the national security are frequently getting transmitted through such OTT platforms.

As per the report published by Business Today on August 09, 2019, the cable universe has seen a Wipeout of over 15% in the last few years. A large part of dip in the viewership has happened in the urban markets due to factors such as easy access to data and advent of OTT platforms. To compete with OTT, many MSO's has started NVOD content. In NVOD, a single movie is telecasted on multiple LCN's. This helps the subscriber to watch the content without missing it. This is created for subscriber who cannot afford Broadband and OTT because of their exorbitant cost. NVOD content can called as poor man's OTT. So multiple LCN's telecasting same NVOD content should be considered as one platform channel.

4. Sharing of Platform Channels - Sharing of platform channels plays a very important role as it helps MSO's in saving cost. Also, advocating non sharing of PC channels is in contrast to the TRAI's vision of infrastructure sharing.

COMMENTS/SUGGESTIONS ON THE CONSULTATION PAPER

Please find below our point wise comments on each of the recommendations:

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1. Para 2.39 of the TRAI's Recommendations dated 19.11.2014 -

Authority's Recommendation – “In view of above, TRAI has no objection to accept Ministry's view provided that Ministry of Information and Broadcasting is able to specify compliance structure to ensure that those providing platform services make full disclosure on ownership status and comply to content code and advertisement code while providing platform services.”

Comments - We agree with the Authority's recommendation that those providing platform services should make full disclosure on the ownership status and comply with the content code and advertisement code while providing platform services. However, we reiterate that the programming services offered by MSOs are already covered adequately under the CTN Act, 1995 and are therefore already mandated to comply to Content Code and Advertisement Code while providing programming services.

2. Para 2.45 of the TRAI's Recommendations dated 19.11.2014 -

Authority's Recommendation – The Authority has reiterated its earlier recommendations which are as follows:

“The Authority recommends that a maximum number of 5 PS channels could be offered by the cable operators in non-DAS areas. In DAS areas and for all other platforms, a maximum of 15 PS channels could be offered by the DPOs. These numbers are the number of PS channels to be made available at the subscribers' end.”

Comments – We disagree with the recommendations made by the Authority on number of platform channels that can be offered by DPO.

Currently MSO's are providing programs dedicated to local events, live telecast of local religious places, local linguistic programs etc. All this content should be considered as community service rather than a Platform channel.

Additionally, each MSO has thousands of LCOs and many LCOs demand their PS channel to be carried, there should not be any restrictions on the number of PS channels.

By restricting number of Platform services, the authority is restricting number of local channels being inserted by LCO's in MSO headend. This would unleash another wave of discontent among LCO's, which may not be good for healthy growth of the Cable sector, which has already seen massive agitation by LCO community.



Hence it is imperative for the authority to have a fresh look at its recommendation, there should be no restriction on the number of Platform services in case of MSO's.

Moreover, MIB should categorically exclude the Ground based channels from the definition of Platform services. The difference between the platform services and the Ground based channels has also been acknowledged by the MIB in its consultation paper on the CTN Amendment Act which clearly distinguishes between the satellite channels, platform services and ground-based channels.

3. Para 2.52 of the TRAI's Recommendations dated 19.11.2014

Authority's Recommendation - The Authority has agreed with the suggestion given by MIB which are as follows:

".....To extend TRAI recommendation for security clearance of MSOs/LCOs in non-DAS areas, to all MSOs/LCOs who are not security cleared and wish to offer PS to their subscribers. MIB will obtain security clearance of all MSOs/LCOs, who wish to offer PS and were not MHA security cleared at the time of registration, while they run their PS. However, if at any time before the MIB obtains the security clearance, it is determined that the programming service offered on PS and which has been registered on the online system is inimical to India's national security or to the public interest, MIB may require the MSO/LCO to withdraw from distribution of the PS Channel or the programming service and/or cancel the registration."

Comments—We agree with the Authority's recommendation that the MIB will obtain security clearance of all MSO(s)/LCO(s), who wish to offer PS and were not MHA security cleared at the time of registration, while they run their PS and such MSO(s)/LCO(s) should be mandated to obtain security clearance(s) in a time bound manner. However, the responsibility of all regulatory compliances including obtaining security clearance and/or registration should be of the respective MSO or LCO, as the case may be. To avoid disruption of PS services, one year time period may be offered to the existing PS providers to get security clearance from the date of notification of the regulations along with guidelines to obtain the security clearance.

4. Para 2.7 of the TRAI's Recommendations dated 13.11.2019

Authority's Recommendation - Authority, therefore, agrees with the views of MIB. The definition of Platform Services (PS) shall be:



“Platform services (PS) are programs transmitted by Distribution Platform Operators (DPOs) exclusively to their own subscribers and does not include Doordarshan channels and registered TV channels. PS shall not include foreign TV channels that are not registered in India.”

Registered TV channels or television channels means a channel, which has been granted downlinking permission by the Central Government under the policy guidelines issued or amended by it from time to time and reference to the term ‘channel’ shall be constructed as a reference to ‘television channel’.

Comments—In this regard, we reiterate the definition proposed by us in our comments to the CTN Amendment Act and state that the word ‘programme’ should be replaced with the term ‘programme services’. Accordingly, the definition proposed by us would read as below:

“Platform Service” – are programme services transmitted in the form of channel through the addressable systems of Distribution Platform Operators (DPOs) exclusively to their own subscribers and does not include Doordarshan channels, ground-based channels and satellite TV channels.

(Ground based channels need to be defined in CTN act / regulations to bring clarity)

5. Para 2.16 of the TRAI’s Recommendations dated 13.11.2019

Authority’s Recommendation - The Authority agrees with the views of MIB. The authority recommends that:

(i) The programme transmitted by the Direct To Home (DTH) operator/ Multi Systems Operators (MSOs)/ Internet Protocol Television (IPTV)/ Head-End Into The Sky (HITS) operator as a platform service shall be exclusive and the same shall not be permitted to be shared directly or indirectly with any other Distribution Platform Operator (DPO).

(ii) Programme transmitted by the DTH operator/ MSOs/ IPTV/ HITS operator as a platform service shall not directly or indirectly include any registered TV channel or Doordarshan channel or foreign TV channel. Time-shift feed of registered TV channels (such as +1 services) shall not be allowed as a platform service.

(iii) DTH operator/ MSOs/ IPTV/ HITS operator shall ensure and provide an undertaking to the Ministry in the format prescribed by the Ministry that the programme transmitted is exclusive to their platform and not shared directly or indirectly with any other DPO.’

(iv) In case the same programme is found available on the PS of any other DPO, MIB/TRAI may issue direction to immediately stop the transmission of such



programme. MIB also reserves the right for cancellation of registration of such PS of the DTH operator/ MSOs/ IPTV/ HITS operator.

Comments – We understand that the Authority has proposed the above recommendations with the sole objective of ensuring uniformity of guidelines to DTH operators and MSOs. However, the Authority while proposing its views in favour of a common regulatory regime, has failed to comprehend that both distribution platforms are significantly distinct from one another in various manners. We reiterate that the DTH operators are not permitted to provide platform services unlike MSO(s) who provide platform services in terms of the CTN Act read with the CTN Rules and to that extent are prima facie incomparable. Equating DTH with MSO(s)/LCO(s) is also fundamentally incorrect as they are incredibly different in terms of their licensing conditions, subscriber base, organization structure, mode of transmission *et cetera*. Hence, prescribing a uniform regulatory regime is highly erroneous, unfair and unequal.

Also, as stated herein above, platform services (*being offered illegally as on date*) by the DTH operators are satellite based and therefore, the provisions as applicable to satellite-based channels should be applicable to the platform services offered by the DTH operators including applicable fees, eligibility criteria and other conditions.

We differ with regard to the para of the recommendation (a) (c) and (d) of the Authority to the extent that:

- Live Channels - Channels telecasting live content from Mandir etc. should not be considered as platform channels. By telecasting the live content, DPO specially MSO's are doing community service. Also, DPO's are investing heavily to record and telecast the content. So Live channels should not be considered as Platform Channel.
- Local City Channels - Most of the MSO's are telecasting channels localized to the cities. The content consists of City happening, Government Initiatives for public, problems faced by City residents etc. No national or even Regional broadcaster focuses on a single City. These channels play a very important role and are running for years. In many cases, subscribers know the MSO by its City channel name. As all major MSO's are covering multiple states and cities from one headend, so number of channels telecasted by them are high.
- NVOD channels - In case of NVOD channels, a single movie is telecasted on multiple LCN's. This helps the subscriber to watch the content without missing it. This is created for subscriber who cannot afford Broadband and OTT because of their exorbitant cost. NVOD content can called as poor man's OTT. So multiple LCN's telecasting same NVOD content is necessarily to be considered as one platform channel.



- Sharing of platform channels - Sharing of platform channels should be permitted as this helps MSO's in saving cost. Also, advocating non sharing of PC channels is in contrast to the TRAI's vision of infrastructure sharing. Some entertainment programs, music, movies for which DPO has copyrights for cable network may also be available with another DPO with valid rights with rights and should not be viewed as a violation of same program by multiple PS channels
- Ownership of content - TRAI and MIB should register the Platform Channel operators and should go for security clearance. But content of Platform Channel should be responsibility of the PC operator and not DPO.

6. Para 2.37 of the TRAI's Recommendations dated 13.11.2019

Authority's Recommendation - The Authority agrees with the views of MIB. The authority recommends that the DTH operator/ MSOs/ IPTV/ HITS operator shall provide an option of activation/deactivation of platform services as prescribed in the orders/directions/regulations issued by TRAI from time-to-time.

Comments—In this regard, we state that we agree with the Authority's recommendation and are already providing this option of activation/deactivation of platform services to the subscribers/consumers However, if the platform service is a free service and part of the DPO bouquet chosen by the subscriber such deactivation of a particular channel shall not be mandatory.

7. Para 2.45 of the TRAI's Recommendations dated 13.11.2019

Authority's Recommendation - The Authority agrees with the views of MIB. The Authority recommends that for the DTH operator/ MSOs/ IPTV/ HITS operator:

- (a) The platform services channels shall be categorized under the genre 'Platform Services' in the Electronic Programmable Guide (EPG) subject to orders/directions/regulations issued by TRAI from time-to-time.**
- (b) The respective maximum retail price (MRP) of the platform service shall be displayed in the EPG against each platform service subject to orders/directions/regulations issued by TRAI from time-to-time.**
- (c) A provision for putting a caption as 'Platform Services' may be required to distinguish the platform services from the linear channels. Government may decide the caption in a size which is visually readable by the consumers.**



Comments -In this regard, we state that we are in agreement with the aforementioned recommendations given by TRAI.

For any other details kindly do let us know .

Thanks and regards

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(For Fastway Transmissions Pvt. Ltd.)