



## TRAI CONSULTATION PAPER

ON

# “STANDARDS OF QUALITY OF SERVICE (DURATION OF ADVERTISEMENTS IN TELEVISION CHANNELS) (AMENDMENT) REGULATIONS, 2012”

RESPONSE OF

NEO SPORTS BROADCAST PRIVATE  
LIMITED

Dated : September 11, 2012

NEO Sports Broadcast Pvt. Ltd.  
[www.neosports.tv](http://www.neosports.tv)

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We appreciate the efforts put in by the Telecom Regulatory Authority of India to issue an Amendment to the Regulations dated May 14, 2012 and on the opportunity provided to us for submitting comments on the Standards of Quality of Service (Duration of Advertisements in Television Channels) (Amendment) Regulations, 2012.

The views/ recommendations/ submissions made by us is without prejudice to our legal rights and contentions with regard to jurisdiction and other legal issues.

**Preliminary:**

**We reiterate our response submitted with TRAI on March 16, 2012 wherein we have submitted our views in detail on all the issues. Our response to this Consultation paper is in no way overriding our earlier response on the Consultation paper dated March 16, 2012 and is only an addition to it.**

**Reply to Consultation Issues:**

***"3. Duration of advertisements in a clock hour. ----- No broadcaster shall, in its broadcast of a programme, carry advertisements exceeding twelve minutes in a clock hour."***

*NEO'S Views: We once again bring to the immediate attention of the Hon'ble Authority that it had released recommendation on Issue related to Broadcasting and Distribution of TV Channels dated October 1, 2004 wherein it was rightfully observed that the market has a means of correcting "Overadvertising". It was further observed that for Sports Broadcasters, advertisements can only be inserted during the 'natural breaks like between the Overs' in a Cricket match or during lunch/tea time. In the said recommendation another point that was very laudable was that the Hon'ble Authority very wisely stated that it would not be correct to interfere with the business model of a Broadcaster as they keep changing their business model in response to the market conditions and it would be difficult to give regulatory guidance at the required speed to the Broadcasters. Our concern mainly rests on the deletion of the regulation pertaining to insertion of advertisements during natural breaks. By amendment of the earlier regulation stated above, TRAI has brought*



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*Sports Broadcasters in the same genre as other broadcasters which is unacceptable as the same yardsticks cannot apply to Sports Broadcasters providing LIVE events.*

*Regulation on the advertisement time and its corresponding affect on the revenues for broadcasters will hamper growth and competition in the broadcasting Industry.*

*The Sports Broadcasters are faced with lot of impediments in the way of revenue generation and an imposition of a regulation pertaining to duration of advertisements in a clock hour will further hamper the prospects of the Sports Broadcasters in revenue generation by way of advertisements since the Sports Broadcasters will not be able to utilize its total time of twelve minutes in an hour if there is a LIVE event being telecast on its Channels. The Sports Broadcasters will be able to maximize the advertisement rationing only if the same is not on an hourly basis. Kindly note that Sports Broadcasting industry in itself is a very unique category both in terms of the shelf life of its content and business model involved in the sports category. Advertising opportunities in football, car racing, golf etc cannot be governed by similar rules. Controlling even the only other revenue opportunity available to sports broadcasters by putting restriction of advertisement in a clock hour will further curtail our scope to maximize revenues by way of advertisements during a LIVE event and due to which even recovering the cost of acquiring the rights to telecast will become a distant reality. Sports model is a very unique model where many content by its very nature have extremely limited scope to fully monetize its value and hence the channel consciously purchase other properties that offer revenue opportunities (advertising/ subscription) to subsidize/ compensate for the losses that may have been incurred on other properties. Hence a straight jacketed application of the advertising rule will be completely prejudicial to the business model of sports.*

*At the time of bidding for the procurement of rights of certain LIVE sporting events the Sports Broadcasters take into account advertisements as a source of generating revenues and the same is built in the bidding cost which today is at an all time high due to stiff competition amongst the Sports Broadcasters. In order to sustain the huge cost incurred, the Sports Broadcasters rely on advertisements by way of sponsorships etc as a source of recovering its cost. By imposition of such regulations, the very survival of the Sports Broadcasters are at a stake. Sports Broadcasters are extremely sensitive to its viewers since it realizes that the value of sports stems from showing the event LIVE and any disruption will only impact its business by way of loss of viewership which in other words means "Loss of revenue".*



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*Sports business model in India has already been highly sub-optimized in the light of stringent rate regulation, mandatory sharing with public broadcaster, must offer clause, in the light of escalating prices of the content and the huge distortion it has brought in the business model of the sports broadcasters. Besides many sport content owners while giving the right to telecast also mandate to the broadcaster strict norms that govern the telecast quality and interruptions to ensure viewership experience*

*Now controlling even the only other revenue opportunity available to sports broadcasters by putting restriction of advertisement within a clock hour will mean certain death of this business category since they will have no scope left for them to decide on their business plans any more.*

*All the possible modes of revenue generation for the Sports Broadcasters are being closed as we have to share our Signals with Prasar Bharati under The Sports Broadcasting Signals (Mandatory Sharing With Prasar Bharati) Act, 2007 to share such sporting events of national importance with Prasar Bharati which broadcasts/retransmits the shared sports signals that leads to grave violation of intellectual property rights of the Broadcasters acquired at enormous costs thereby resulting in huge losses to the Broadcasters. Our signals are only meant to be shared with Prasar Bharati in their kendras on free-to-air terrestrial network but is freely available to cable operators and DTH operators thereby leading to extensive violation of intellectual property rights of Broadcasters. In such an event where a cable operator/DTH service provider can receive the satellite signals of sporting events for free from Prasar Bharati, there is no reason for such cable operators/DTH service providers to enter into a service contract with the sporting events rights holder i.e. the Broadcaster and pay the legitimate license/subscription fee and this, has a direct adverse impact on Broadcaster's affiliate revenue. We recommend the authority to consider issuing direction to Prasar Bharati to encrypt the signals only at the time of the sporting events.*

*Moreover, there is also a price freeze on the rate of the Channels, thereby limiting the generation of our revenue and the broadcasters are at the mercy of TRAI for any increase in the rate of the channel.*

*In the light of the above, there is no need for a regulation that advertisements to a maximum of twelve minutes should necessarily be exhausted on an hourly basis as the same is not possible during LIVE events. Moreover, TRAI should have considered LIVE and Non-LIVE events and also prime and non-prime time before it zeroed on to*



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*the regulation on clock hour basis. There needs to be a clear distinction on the same. A common benchmark cannot be applied with Sports Broadcasters and other broadcasters.*

**“5. Reporting requirements -----”**

*At the outset we would like to state that the said insertion will unnecessarily expose our sensitive information to our competitors.*

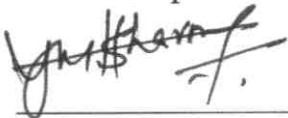
**Conclusion**

The Hon'ble Authority needs to revisit the amended regulation in the light of the above submission. It is further submitted that the Authority ought to recognize Sports Broadcasters as a separate group at the time of issuing Consultation papers of this type since the business model of Sports Broadcasters differs from the broadcasters of other genres.

Thanking You,

Yours Faithfully,

For NEO Sports Broadcast Private Limited



Mukul Sharma

(C.S. and Associate Vice President- Legal & Regulatory Affairs)

**Comments received w.r.t. OHD**

**RESPONSE OF NEO SPORTS BROADCAST PVT LTD TO "OPEN HOUSE" HELD BY TRAI ON NOVEMBER 23, 2012 AT NEW DELHI ON "STANDARDS OF QUALITY OF SERVICE (DURATION OF ADVERTISEMENTS IN TELEVISION CHANNELS) (AMENDMENT) REGULATIONS, 2012"**

**Preface**

At the outset we sincerely appreciate the efforts put in by the Telecom Regulatory Authority of India on the opportunity provided to us for submitting further comments on the Standards of Quality of Service (Duration of Advertisements in Television Channels) (Amendment) Regulations, 2012 pos the Open House Discussion held in New Delhi on 23.11.2012.

In this context, we are once again submitting our response vide this we reiterate our response submitted with TRAI on March 16, 2012 and September 11, 2012 resepctively, wherein we have submitted our views in detail on all the issues. Our present response is in no way overriding our earlier responses and is only an addition to it.

The views/ recommendations/ submissions made by us is without prejudice to our legal rights and contentions with regard to jurisdiction and other legal issues.

**NEO'S Views on : "3. Duration of advertisements in a clock hour. -----  
No broadcaster shall, in its broadcast of a programme, carry advertisements exceeding twelve minutes in a clock hour."**

- *We agree that the Hon'ble Authority should take corrective steps to curb Overadvertising but it should clearly bear in mind that for Sports Broadcasters, advertisements can only be inserted during the 'natural breaks like between the Overs' in a Cricket match or during lunch/tea time.*
- *The Hon'ble Authority should give due weightage to the business model of a Broadcaster as they keep changing their business model in response to the market conditions and it would be difficult to give regulatory guidance at the required speed to the Broadcasters.*
- *As a Sports Broadcaster our main concern rests on the deletion of the regulation pertaining to insertion of advertisements during natural breaks. By amendment of the earlier regulation, TRAI has brought Sports Broadcasters in the same genre as other broadcasters which is unacceptable as the same yardsticks cannot apply to Sports Broadcasters providing LIVE events.*
- *Regulation on the advertisement time and its corresponding affect on the revenues for broadcasters will hamper growth and competition in the broadcasting Industry.*

- It is most humbly requested that the Hon'ble TRAI ought to bear in mind at the time of drafting the Regulations, the impediments that Sports Broadcasters face in revenue generation and an imposition of a regulation pertaining to duration of advertisements in a clock hour will further hamper the prospects of the Sports Broadcasters in revenue generation by way of advertisements, since the Sports Broadcasters will not be able to utilize its total time of twelve minutes in an hour if there is a LIVE event being telecast on its Channels. The Sports Broadcasters will be able to maximize the advertisement rationing only if the same is not on an hourly basis. Kindly note that Sports Broadcasting industry in itself is a very unique category both in terms of the shelf life of its content and business model involved in the sports category.
- Advertising opportunities in football, car racing, golf etc cannot be governed by similar rules. Controlling even the only other revenue opportunity available to sports broadcasters by putting restriction of advertisement in a clock hour will further curtail our scope to maximize revenues by way of advertisements during a LIVE event and due to which even recovering the cost of acquiring the rights to telecast will become a distant reality. Sports model is a very unique model where many content by its very nature have extremely limited scope to fully monetize its value and hence the channel consciously purchase other properties that offer revenue opportunities (advertising/ subscription) to subsidize/ compensate for the losses that may have been incurred on other properties. Hence a straight jacketed application of the advertising rule will be completely prejudicial to the business model of sports.
- In the bidding process to procure rights of certain LIVE sporting events, advertisements as a source of revenue plays a pivotal role and the same is built in the bidding cost which today is at an all time high due to stiff competition amongst the Sports Broadcasters. In order to sustain the huge cost incurred, the Sports Broadcasters rely on advertisements by way of sponsorships etc as a source of recovering its cost. By imposition of such regulations, the very survival of the Sports Broadcasters are at a stake.
- The Sports Broadcasters are also aware and are extremely sensitive to its viewers since it realizes that the value of sports stems from showing the event LIVE and any disruption will only impact its business by way of loss of viewership which in other words means "Loss of revenue".
- Sports business model in India has already been highly sub-optimized in the light of stringent rate regulation, mandatory sharing with public broadcaster, must offer clause, in the light of escalating prices of the content and the huge distortion it has brought in the business model of the sports broadcasters. Besides many sport content owners while giving the right to telecast also mandate to the broadcaster strict norms that govern the telecast quality and interruptions to ensure viewership experience. Now controlling even the only other revenue opportunity available to sports broadcasters by putting restriction of advertisement within a clock hour will mean certain death of this business category since they will have no scope left for them to decide on their business plans any more.



- *All the possible modes of revenue generation for the Sports Broadcasters are being closed as we have to share our Signals with Prasar Bharati under The Sports Broadcasting Signals (Mandatory Sharing With Prasar Bharati) Act, 2007 to share such sporting events of national importance with Prasar Bharati which broadcasts/retransmits the shared sports signals that leads to grave violation of intellectual property rights of the Broadcasters acquired at enormous costs thereby resulting in huge losses to the Broadcasters. Our signals are only meant to be shared with Prasar Bharati in their kendras on free-to-air terrestrial network but is freely available to cable operators and DTH operators thereby leading to extensive violation of intellectual property rights of Broadcasters. In such an event where a cable operator/DTH service provider can receive the satellite signals of sporting events for free from Prasar Bharati, there is no reason for such cable operators/DTH service providers to enter into a service contract with the sporting events rights holder i.e. the Broadcaster and pay the legitimate license/subscription fee and this, has a direct adverse impact on Broadcaster's affiliate revenue. We recommend the authority to consider issuing direction to Prasar Bharati to encrypt the signals only at the time of the sporting events.*
- *Moreover, there is also a price freeze on the rate of the Channels, thereby limiting the generation of our revenue and the broadcasters are at the mercy of TRAI for any increase in the rate of the channel.*

*In the light of the above, there is no need for a regulation that advertisements to a maximum of twelve minutes should necessarily be exhausted on an hourly basis as the same is not possible during LIVE events. Moreover, TRAI should have considered LIVE and Non-LIVE events and also prime and non-prime time before it zeroed on to the regulation on clock hour basis. There needs to be a clear distinction on the same. A common benchmark cannot be applied with Sports Broadcasters and other broadcasters.*

### **NEO'S Views on : "5. Reporting requirements -----"**

*At the outset we would like to state that the said insertion will unnecessarily expose our sensitive information to our competitors.*

### **Conclusion**

The Hon'ble Authority needs to revisit the amended regulation in the light of the above submission. It is further submitted that the Authority ought to recognize Sports Broadcasters as a separate group at the time of issuing Consultation papers of this type since the business model of Sports Broadcasters differs from the broadcasters of other genres.

Thanking You,  
**For NEO Sports Broadcast Private Limited**

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**Mukul Sharma**  
**(C.S. and Associate Vice President- Legal & Regulatory Affairs)**