



Prof. M. V. Rajeev Gowda
Former Member of Parliament, Rajya Sabha

Response to TRAI's Consultation Paper on the New Regulatory Framework

To:

30 May 2022

Shri Anil Kumar Bhardwaj

Advisor (B & CS)

Telecom Regulatory Authority of India

Dear Shri Anil Kumar Bhardwaj:

The Telecom Regulatory Authority of India deserves congratulations for putting out a Consultation Paper and inviting inputs from various stakeholders with respect to a New Regulatory Framework for the broadcast industry. In my submission, from the perspective of a former Member of Parliament and a former Professor of Economics and Chairperson of the Centre for Public Policy at the Indian Institute of Management Bangalore, I would like to offer recommendations on policy design principles that could aid TRAI's approach towards broadcasting regulation.

Broadcasting in India has evolved spectacularly over recent decades. It has provided our people with entertainment and education while allowing creative, journalistic, cultural, sports and other talent to flourish. It has created job opportunities in a variety of domains, directly and indirectly. It is therefore imperative that broadcasting regulation provides an impetus to investment, stimulates competition in service and content delivery, and enables our nation and our people to pursue diverse economic and social goals.

There is an urgent need to improve policy coherence in TV broadcasting regulation in India. In 16 years (2004 – 2020), the TRAI notified 77 regulations and amendments, 70% of which were challenged in tribunals or courts. The New Regulatory Framework (NRF), implemented in 2019, left consumers confused and underserved. It was a challenge to migrate to the new channel selection procedure, which technically required consumers to sort through 900 channels to effectively exercise choice. Consumers were essentially force-migrated to a 'Best Fit Plan' designed by service providers. NRF implementation

also led to the broadcasting industry losing 12-15 million subscribers. Hence TRAI should usher in urgent reforms to further its objectives of facilitating orderly growth in the sector and serving consumer interest.

Dissonance Between Objectives and Regulatory Mechanisms

Over the last 18 years, the TRAI sought to increase competition, promote efficiency, and encourage wider consumer choice. The NRF specifically sought to (i) encourage transparency and equity across the value chain; (ii) reduce the incidence of disputes and promote orderly growth; (iii) encourage investment in the TV sector; and (iv) encourage quality content production across genres.

To achieve these objectives, the TRAI primarily relied on restrictions on the pricing and packaging of content. It is uncertain how such measures would work to enable the realisation of TRAI's objectives, particularly as a majority of them are Quality of Service parameters. Further, price ceilings and restrictions on bundling may have had effects opposite to the TRAI's objectives for the broadcasting sector and resulted in perverse and unintended outcomes to the detriment of a range of stakeholders.

Price Ceilings Adversely Impact Content Quality and Diversity

As an economist, it is clear to me that producing quality content requires both variable and high investments. Content markets entail significant risks. Producers do not know how audiences will respond to content products until they are made and released. Such circumstances are best served economically through a dynamic pricing regime. Dynamic pricing helps content producers account for the risk of content production by enabling them to realise greater returns on content that is successful, while offsetting the losses on content that is not as well-received by audiences.

Content industries are ill-served by fixed pricing models which constrain the ability of a producer to use the returns from successful content to offset the losses from content that is unsuccessful. In essence, price ceilings discourage risk-taking and experimentation in content. While fixed pricing is aimed at safeguarding consumers, ultimately, they lose out because of lower content diversity and quality over time.

There were numerous channel shutdowns in the wake of the implementation of the NRF. This is because the NRF brought in harsher restrictions on pricing and packaging of content than previous regimes. These

channel shutdowns serve as evidence of the adverse impact of such measures on content quality and diversity.¹

Price ceilings on content also increase a channel's dependence on advertising revenue. As such, they incentivise channels to compete for eyeballs, rather than focus on improving the quality of content. This has resulted in formulaic content and sensational news that are designed to attract more eyeballs. When news channels pander to sensationalism in their quest for Television Rating Points (TRPs) and the concomitant advertising revenues, they underperform on their societal roles to keep the public better informed and educated. Thus, a vital pillar of our democracy – news media – suffers.

Freedom of bundling also plays an important role in allowing content creators to offset the subscription costs of different kinds of content. In a market like India, informational content does not have as strong a subscriber base as sports or general entertainment. At the same time, informational content is expensive to produce. Illustratively, the series *Planet Earth*, which was co-produced by the BBC, the Discovery Channel, and the Japanese broadcaster NHK, is one of the most expensive series ever produced.² The series provides important messages about the impact of human activity on the environment and disseminates interesting information about the natural world.

Bundling channels with informational content along with a sports channel, enables broadcasters to pay for creating such content. Further, such bundling also subsidises consumers who would like to watch such content, but who may not be able to afford the standalone price of such a channel. Conversely, restrictions on bundling make it difficult for broadcasters to invest in such informational and educational content, and lead to channel shutdowns. Consumers are then deprived of crucial educational opportunities which are vital for our younger demographic segments. Without such channels, our youth will turn to and become reliant on misleading, incomplete and superficial content from social media platforms.

Bundling diverse content also creates sampling opportunities for consumers, enabling scenarios where consumers are exposed to content they may not have opted for in a pure a-la-carte setting. Bundling allows consumers to experiment with consuming new types of content at minimal additional marginal cost.

Aligning TRAI Broadcasting Regulations with Global Best Practices

An examination of broadcast regulators in other countries with similar objectives shows that they do not prescribe price ceilings or restrict channel

¹ <https://theprint.in/india/not-just-axn-dilli-aaj-tak-40-more-channels-could-shut-down-tv-industry-fears/435160/>

² [https://en.wikipedia.org/wiki/Planet_Earth_\(2006_TV_series\)](https://en.wikipedia.org/wiki/Planet_Earth_(2006_TV_series))

packaging. In the Asia-Pacific region alone, Australia, Cambodia, China, Hong Kong, Indonesia, Japan, Malaysia, Myanmar, New Zealand, Philippines, Singapore, South Korea, Thailand, and Vietnam do not have³ prescriptive regulations on retail rates or channel bundling. Additionally, no countries place restrictions on channel bundles.

Forbearance as a solution to TRAI's Regulatory Woes in Broadcasting

It is a tribute to the TRAI's regulatory efforts and the size and diversity of India's market that the broadcasting sector is highly competitive and generates over 24 lakh jobs (Table 1). The presence of several thousands of distribution platform operators and hundreds of broadcasters is a tangible measure of successful regulation. India has come a long way from being served by just a handful of operators when the TRAI entered the market. As such, the sector is ripe to reap the benefits of regulatory forbearance, in a manner similar to the telecom industry. It will result in an uptick in employment generation in line with national policy goals.

Table 1: Employment Generation in the TV Industry (2019)

Indirect Employment	Direct Employment
18,34,000	5,80,000

Sources: TV Employment data- Deloitte Economic Impact Report

A 2021 Competition Commission of India market study on the telecom sector showed that forbearance on tariffs actually enabled telecom players to move beyond price-based competition. It allowed them to focus on non-price factors/parameters of competition like Quality of Service, data speeds and bundled offerings. The broadcasting sector is also likely see the same results if forbearance is brought in. The objectives that the TRAI seeks to achieve, i.e., greater consumer choice and transparency, are effectively Quality of Service parameters. Doing away with price restrictions in the sector will free up regulatory capacity to focus more on enabling greater transparency and services for consumers on the ground.

In addition to forbearance, the TRAI may also consider inducting high-level design principles⁴ recommended by the International Telecommunications Union (ITU) to usher in a more forward-looking regulatory regime. Such a regime would be better placed to respond to the rapid changes in technology which characterise this sector, e.g., the emergence of OTT platforms and delivery of content through the Internet to a variety of devices including computers and mobile phones.

³ [CAS Same Same but Different.pdf \(gscoalition.org\)](#)

⁴ https://www.itu.int/en/ITU-D/Conferences/GSR/2019/Documents/G5-Benchmark_atGSR19.pdf#page=7

Regulation should shift from rules and restrictions to principles that the regulator adheres to in rulemaking. Principles are better suited for finding balanced, sound solutions, especially in complex areas. Principle-based regulation is future proof and adaptive. Principles also provide policy coherence and predictability because rules may change but design principles remain. Policy certainty is important to improve investor confidence in the broadcasting segment and ensure that regulatory changes do not inconvenience consumers.

One of the most important design principles recommended by the ITU is to ensure that regulation is evidence based. To this end, I strongly recommend that the TRAI undertake regulatory impact assessments to understand the actual effects that its regulations have on the ground. Have the intended outcomes been realised? Or have there been unexpected, possibly counterproductive results and unforeseen externalities, e.g., affecting consumer choice and the creative sector.

India has come a long way from being an overregulated, command-and-control state. Our liberalised economy has unleashed the forces of innovation and entrepreneurship to provide our people with an unimaginably rich and diverse set of goods and services. Doing away with arbitrary restrictions on commercial decisions has paved the way for economic revolutions in different sectors. Competition has ensured that we enjoy some of the world's lowest cost services across a range of sectors, including broadcasting and telecom.

With its thriving content market, India has the potential to have one of the most successful broadcasting industries in the world. This will transform our people's exposure to the world of knowledge, creativity, sports, and culture, while creating jobs at scale. The first crucial step towards this is to do away with pricing restrictions and let competition fulfil its function. I therefore urge the TRAI to usher in the crucial reform of ending pricing restrictions in order to achieve the goal of helping India's broadcasting sector realise its economic potential and fulfil its larger societal mission.

Sincerely,



Former Member of Parliament, Rajya Sabha
Former Professor of Economics and Chair, Centre for Public Policy
Indian Institute of Management Bangalore