

May 4th, 2018

The Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhawan,
Jawaharlal Nehru Marg,
New Delhi – 110 002

Kind Attention: Sh. Anil Kumar Bhardwaj, Advisor (B&CS)

Reference: Consultation Paper on Issues Related to Placing of Television Channel on Landing Page dated April 3, 2018 (“Consultation Paper”)

Dear Sir,

We write to you in reference to the Consultation Paper.

We welcome the Telecom Regulatory Authority of India’s (“**TRAI**”) initiative on seeking comments from all stakeholders on issues relating to placing of television channel on landing page.

We have set forth our responses on behalf of TV 18 Broadcast Limited (“**TV18**”) and its affiliates against each of the questions raised by the TRAI in the Consultation Paper and would request the TRAI to kindly take on record our responses set forth hereunder.

Our responses hereunder are without prejudice to any rights available to us under law or equity.

Truly yours,

For **TV 18 Broadcast Limited**


Authorized Signatory

Encl: As above

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TV18 BROADCAST LIMITED’S RESPONSES TO THE CONSULTATION PAPER ON ISSUES RELATED TO PLACING OF TELEVISION CHANNEL ON LANDING PAGE DATED APRIL 3, 2018 (“CONSULTATION PAPER”)

At the outset, we would like to thank the Telecom Regulatory Authority of India (“TRAI” or “Authority”) for giving stakeholders an opportunity to share their views on the issues related to placing of television channel on a distribution platform operator’s (“DPOs”) landing page and also applaud the initiatives by TRAI on the connected issues so far.

We first discuss key issues connected to the use of landing pages over platforms operated by DPOs and then proceed to provide specific responses to each of the questions that the TRAI has sought views from stakeholders on.

PART I - PRELIMINARY COMMENTS ON USE OF THE LANDING PAGE AND PRACTICES BY DPOs

1. **Practices by DPOs:** Despite efforts by the TRAI, many DPOs continue to place linear television channels on their networks in a manner that is advantageous to such channels (and thereby particular broadcasters) over other channels that are not placed in such manner.

Some practices that we have observed include:

- (a) Running of a linear channel on multiple logical channel numbers (“LCNs”) in different genres, simultaneously;
- (b) Placing of a channel on multiple LCNs within the same genre;
- (c) Placing a channel on a landing page as well as placing such channel at an LCN within its relevant genre;
- (d) Placing a channel on single LCN within such channel’s relevant genre, and the such channel is also being shown on a DPO’s landing page; and
- (e) In some cases, DPOs have also been known to restrict flipping/allowing changing of a channel on a landing page for a certain predefined duration of time.

2. **Adverse Impact on the Subscribers and other Stakeholders:** We have summarized the critical issues/concerns caused by placement of channels over landing pages by DPOs:

- (a) **Adversely Impacts Subscriber Choice:** We submit that by placing a channel, or part thereof, over a landing page by a DPO, every customer of such DPO is mandatorily forced to watch such channel immediately upon switching on of the set top box (“STB”). In many cases DPOs also put a predefined time restriction before which a customer cannot flip/change the channel/content placed over a landing page. Both these actions directly limit, and adversely impact, a consumer’s choice. By placing a channel over a landing page, DPOs are forcing their consumers to opt/subscribe for or view channels over landing pages even if the subscriber has not opted for such channel or may not want to watch such channel/content.

Accordingly, the TRAI should inter-alia mandate that there should be no restriction in a subscriber’s ability to change the content being displayed after an STB starts-up.

- (b) Impact Television/Programme Ratings: By placement of a channel (which is tracked for ratings) or a part thereof over a landing page, DPOs also intentionally and artificially influence the channel ratings.
- i. Channel/program ratings play a crucial role in the broadcast sector and help give broadcasters direction in terms of the programming sought by consumers. Ratings provide feedback to the broadcasters and promote development of programs and scheduling in line with consumers' choice / viewership patterns.
 - ii. Channel ratings also help advertisers decide which channels and programmes to advertise on. Broadcasters and content with good ratings/projected ratings tend to get better advertising revenues as well. However, if there is an artificial thrust towards trying to influence ratings in respect of content (that may otherwise not be superior), then the same will end up generating higher advertising revenues for such broadcasters whilst broadcasters that may have superior content but whose channels or any parts thereof are not placed over landing pages will lose out, and as will the end consumers.
 - iii. The Broadcast Audience Research Council (“**BARC**”) carries out audience measurement by embedding a watermarked audio code that is unique to each channel that is tracked/rated by BARC. The watermarked code consists of a channel ID and a time stamp embedded in the audio component of such channel. To calculate ratings, a measuring unit (known as a ‘BAR-O-Meter’) is installed at a panel household’s premises, which captures the relevant audio watermark embedded in the relevant television channel when such channel or any part thereof is being viewed by a panel household.
 - iv. Upon placing a channel on multiple LCNs or placing a channel or a part thereof on landing pages, the ‘BAR-O-Meter’ collects ratings for all LCNs (including a landing page) on which the channel is carried and that artificially inflates ratings of such channel. We have set forth below a few illustrations on how channels being placed on landing pages artificially impact ratings (while not being attributable to customer choice):
 - (i) A viewer may not immediately change a channel (or part thereof) placed on a landing page as and when the STB is turned on. This may be because the viewer may take a minute or two or in some cases longer to choose a channel of his/her choice from the menu options, etc. Ratings acquired by channels (or parts thereof) on landing pages during such period are not reflective of a customer’s choice.
 - (ii) As mentioned in para 2(a) above, in some cases STBs are programmed to not allow changing/flipping of channels for a certain duration, this again boosts the time spent being forced to view the channel (or part thereof) placed over a landing page.
 - (iii) Further, there may be a scenario where a customer switches ‘ON’ the STB multiple times during a day. Further, as pointed out by the TRAI itself, in certain rural and remote places where there are multiple electricity outages, and as a consequence multiple times the STBs get switched ‘on’, and consequently every time the STB gets switched on the channels (or parts thereof) placed on landing pages would gain channel/content ratings not out

of a customer's choice, but purely due to the existence of a commercial arrangement between a broadcaster and a DPO.

- v. Thus, by placing certain channels (or parts thereof) on landing pages, DPOs artificially and surreptitiously influence rating in respect of such channels (or parts thereof).
 - vi. We humbly submit that it is critical that technical loopholes like BARC's inability to disregard ratings derived from landing page channels (or parts thereof) should not be allowed to be misused by DPOs or be allowed to influence channel/programme ratings which is critical to a broadcaster's very survival.
 - vii. Television ratings not only influence the development of, or investment in, content, it also affects consumers' choice / interests. Further, distorted ratings affect the business of broadcasters, advertisers and other stakeholders in the chain.
- (c) In view of the foregoing, and the aspects discussed below in our specific responses to the questions in the Consultation Paper, we suggest that TRAI should inter-alia mandate that no channels (or any parts thereof) (whether watermarked/tracked/rated or not) should be permitted to be placed at the landing page of the DPOs.
3. In addition to our preliminary comments above, we are pleased to set forth our responses to each of the questions raised by the TRAI in the Consultation Paper, below.

Part II - Response to Specific Issues under Consultation

Q1. Do you feel that emerging concept of placing TV channel on landing page can influence TRP ratings? Suggest the action which may address the issue with justification.

Response:

The term '*landing channel*' or the '*landing page*' broadly refers to the LCN which is displayed first / by default when an STB is switched on by a consumer.

Please refer to our detailed preliminary comments in Part I above. Placing of channels (or parts thereof) on landing pages influence ratings of the channels by artificially inflated ratings.

Further, it should be considered that STBs are provided by DPOs to subscribers, and the LCNs are decided by DPOs as well. A DPO may configure various aspects of the STB (and the middleware within) including channels (or parts thereof) placed on a landing page, as well as a predefined duration (configurable by DPOs) during which a subscriber may not be able to navigate to any other channels.

This not only affects the ratings in favor of the channels placed on landing pages, but also affects customer choice and is in general non-transparent and discriminatory to other broadcasters.

In view of the above, we submit that the landing pages should not contain any channels (or parts thereof).

Q2. Should concept of landing page be defined? If so, please suggest the definition of the landing page with justification.

Response:

We are of the view that the concept of landing page should be defined. TRAI may consider the following definition for the term landing page:

“Landing Page” means any audio and/or video content (numbered or unnumbered) that is displayed without an express selection (by means of remote control device paired with STB and/or functionality buttons available on the STB itself) of such channel by a subscriber, including without limitation, the content displayed when the STB is switched on, boot-up, boot-up from standby etc.

We humbly submit that the TRAI should mandate that landing pages cannot be used to show any channel or any parts thereof.

Q3. Will defining Framework for placing TV channels on landing page affect the present business model of distributors? If so, will it be considered impacting the freedom to do business by distributors of TV channels? Give your suggestions with justification.

Response:

Defining framework for placing TV channels on landing page will not affect the present business model of distributors. Customer choice is most critical for any decision on the subject, and any DPO business model which interferes with that by forcing a channel to be watched by a customer or artificially influences a consumer’s choice in favour of a particular channel (or parts thereof) cannot be permitted. Placing a channel (or parts thereof) on the landing page (and in some cases putting a predefined duration before a user is permitting to flip/change a channel), goes completely against customer choice.

Moreover, in the garb of freedom of doing business, DPOs should not be allowed to engage in practices which are against the interests of consumers and broadcasters. Further, such discriminatory practices should not be allowed in a regulatory framework which fundamentally advocates non-discrimination.

Q4. Is landing page a natural choice of consumer while viewing TV channels? If not, why should channels, whose TV ratings are released by TV rating agency, be placed on landing page? Give your comments with justifications.

Response:

Landing page is not the natural choice of a consumer while viewing a television channel, rather it is forced viewership of a certain channel (or parts thereof) over a consumer by a DPO. Accordingly, we reiterate that channels (or any parts thereof) should not be allowed on landing pages. As mentioned in Part I above, if a television channel (or parts thereof) is also being placed on a landing page, then this may result in incorrect and artificially inflated ratings of such channels and may also lead to commercial benefit to certain broadcasters over others.

Q5. Whether placing of a TV channel on landing page increases television ratings? If yes, why TV Channels, whose TV ratings are released by TV rating agency, should not be barred from being placed on landing page? If no, why broadcasters are eager to place their channels on landing page? Give your suggestions with justification.

Response:

Placing of television channel (or parts thereof) on a landing page artificially increases the ratings of such channel (as mentioned above). Further, as discussed above, if a specific television channel is being placed on the landing page by DPO on its network, it will result in forced viewership by every consumer of such DPO since, they will be forced to watch such television channel (or parts thereof). In addition, DPOs may resort to disabling STBs from accepting any command from remote control device (or selection buttons on the STBs) for a certain predefined time, leaving the consumer with no other choice but to watch the said channel (or parts thereof) for such duration. All this results in increase in ratings.

Of note is that the aforesaid practices of multiple placement of channels (as landing page and assigned LCN) also amount to manipulation of consumers choice and distorts the process of ascertaining genuine / intended television viewership data.

We reiterate that no channels (or any parts thereof) should be permitted on landing pages.

Q6. What should be the criteria/consideration to put a TV channels on landing page? Give your suggestion with justification.

Response:

Except a channel (or any parts thereof) a DPO may put any other content over its landing page.

Q7. Do you think the influence, if any, in television ratings by placing of TV channels on landing page can be mitigated through changes in measurement methodology of television ratings? Give your suggestions with justifications?

Response:

As mentioned above, we believe that no television channel (or parts thereof) should be placed on the landing page (whether or not watermarked/rated/tracked). Even if there is a possibility of ensuring that the channels (or parts thereof) on the landing page of the DPO are not watermarked rated/tracked by measurement methodology, mere placing the channel on the landing page would still amount to forcing the placed channel (or parts thereof) on the customer, which goes against the principle of consumer choice.

Further, as mentioned above, by placing a channel (or parts thereof) on a landing page, DPOs are forcing the customer to opt/subscribe for or view the landing pages even if the subscriber has not opted for a particular channel.

Q8. Please comment on the feasibility to implement user's 'last visited page' as landing page in distributors' network?

Response:

In this case also customer would be forced to watch a particular channel (or parts thereof) which he or she may not have watched or wanted to watch. This would again go against consumer choice.

Hence, we strongly advocate that the landing page should not have any channel or parts thereof.

Q9. Should the landing page be used to place TV channels not having TRP rating or only to provide platform specific information? Give suggestions with justification.

Response:

As mentioned in the preliminary comments above, no broadcasters channels (or parts thereof) should be placed on the landing page (whether watermarked or not).

Other than the foregoing, a DPO should be free to decide the content the DPO wanted to put on its landing page.

Q10. Any other suggestions/comments related to the issue under consideration?

Response:

In light of our aforementioned submission, we suggested that TRAI may consider a mechanism to monitor and penalise DPOs who try to artificially influence rating or artificially drive revenues in favour of any particular broadcaster vis-à-vis others.