

AROI Response to Tai Consultation Paper on Framework for Service Authorization for Broadcasting Services under Telecommunications Act 2023

We have reviewed the consultation paper and note that the various recommendations made by TRAI on FM Radio during 2000 to 2024 have not been considered in the draft terms and conditions. We request that the considered recommendations of Trai be included in the draft terms and we have endeavoured to add these under relevant questions.

We have also noted that digital terrestrial broadcasting under FM radio has been erroneously treated as different category than FM Radio. It may be noted that Analogue and Digital are both different methods of broadcasting FM Radio, similar to case of Television which can be received using either analog or digital technology.

Subject to above, we give our comments to questions as follows -

*Q1. Under Section 3(1) of the Telecommunications Act, 2023, the Applicant Entity may be granted an authorisation, in place of the extant practice of the grant of license/ permission from the Central Government. The terms and conditions governing the respective authorisation for broadcasting services may be notified by the Ministry of I&B as Rules to be made under the Telecommunications Act, 2023. In such a case, whether any safeguards are required to protect the reasonable interests of the Authorised Entities of the various broadcasting services? Kindly provide a detailed response with justifications.*

To safeguard and protect reasonable interest of the broadcasters, the draft rules as may be finalized by Central Government, may kindly be shared for review and suggestions with the Operators, before acceptance and notification.

*Q2. The definitions to be used in the Rules to be made under the Telecommunications Act, 2023, governing the Grant of Service Authorisations and provisioning of the Broadcasting (Television Programming, Television Distribution and Radio) Services are drafted for consultation and are annexed as Schedule-I. Stakeholders are requested to submit their comments in respect of suitability of these definitions including any additions/ modifications/ deletions, if required. Kindly provide justifications for your response. Scope and Service Area*

Number 28. Please define current affairs. For too long this has remained undefined.

*Q3. A preliminary draft of Scope of Service for various Broadcasting services and the corresponding Service Area is provided in Table 2.1 for consultation. Whether the same appropriately covers the Scope of Service and Service Area? If not, stakeholders are requested to submit their comments, if any additions/ 111 modifications/ deletions are required in the Scope of Service and Service Area, along with necessary justifications. Authorisation Document*

Scope of service covers Radio , however analog and digital transmission are methodologies of FM radio broadcasting, and hence digital transmission cannot be delinked from FM radio broadcasting .

*Q4. For the purpose of grant of authorisation under Section 3(1) of the Telecommunications Act, 2023, the Central Government may issue an authorisation document to the Applicant Entity containing the essential details viz. Name, Category and Address of entity, Scope of Service, Service Area, Validity etc. A draft format of authorisation document is given at Figure 2.2. Do you agree with the draft format or whether any changes are needed in the draft format of authorisation document? Please provide your response with necessary explanations. Terms and Conditions for Grant of Service Authorisations*

Draft format is ok.

*Q5. A preliminary draft of terms and conditions to be included in the first set of Rules i.e., for Grant of Service Authorisations is annexed as Annexure-II. Stakeholders are requested to submit their comments in the format provided below, against the terms and conditions and indicate the corresponding changes, if any, with necessary reason and detailed justification thereof. S. No. Description Terms and Conditions No. Proposed changes, if any Reason s with detailed justifications*

- 1. Definitions*
- 2. Scope of Service and Service Area*
- 3. Eligibility conditions*
- 112 4. Provision of Broadcasting Services • Television Programming Services • Television Distribution Services • Radio Broadcasting Services*
- 5. Processing Fee, Entry Fee, Bank Guarantee, Security Deposit and Renewal Fee*
- 6. Process of Application to obtain the Service Authorisations*
- 7. Grant of Service Authorisations*
- 8. Validity Period*
- 9. Non-exclusivity clause*
- 10. Conditions for assignment and use of Spectrum*
- 11. Migration of Existing service providers of old regime in the new Authorisation Framework*
- 12. Security Conditions Framework for Television Programming, Television Distribution and Radio Broadcasting .*

Our recommendations are as follows –

E. Conditions for FM radio Broadcasting.

e.1 - Limited Liability Partnerships may be added as eligible organisation for FM radio broadcast. In draft rules only Indian companies are allowed for radio while LLP are also allowed for TV. It should be a level playing field.

e.7 -- One Time Entry /fee should be taken as intangible asset for calculation of net worth. When a license is taken for a long term period by paying this amount, it is definitely an asset as per International and Indian Accounting standards, and therefore valuing it s zero for purpose of net worth is illogical.

7.d – As mentioned in our introduction, Digital terrestrial radio broadcast cannot be treated separately from FM Radio, it being just a different technology for broadcast of FM radio.

11. Migration of Existing Broadcasters / Service Providers to new regime.

The Broadcasters who do not wish to migrate under the new regime should either be allowed to operate during their balance license period OR the unexpired portion of One Time Entry Fees be refunded to such operators.

*Q6. Draft structure for covering terms & conditions for provision of services after grant of authorisations to be included in the second set of Rules, namely, The Broadcasting (Television Programming, Television Distribution and Radio) Services Rules, is shown in Figure 2.4 above for consultation. Whether changes are required in the said structure? Please support your response with proper justification.*

As mentioned earlier, Terrestrial Digital Radio Broadcasting cannot be treated separate from FM Radio as it is just a subset of the later.

*Q7. The two possible approaches for migration from the existing regime of license/ permission to the authorisation framework under the Telecommunications Act, 2023, has been discussed in the Section D of Chapter II. Which of these two or any other approach should be adopted for migrating the existing licensee/ permission holders to the service authorisation framework? Stakeholders are requested to provide their comments with detailed justifications. Penal Provisions*

11.3. I --- Option I is fine. Option ii imposes an additional fees basis differential between old and new terms.

11.1 is in conflict with clause 11.3.iv . Clause 11.3.iv should overrule 11.1.

*Q8. Contravention of the terms and conditions contained in the Rules to be made as well as non-adherence to the Programme Code and Advertising Code is likely to invite penal provisions. A. Whether the extant penal provisions for breach of terms and conditions of license/ permission are appropriate or required to be modified to align with the provisions of the Telecommunications Act, 2023? If so, please provide a detailed response with justifications. If not, whether the said penal*

*provisions should be adopted mutatis mutandis? Please provide a detailed response with necessary justifications. B. c. Further, in respect of violation of Programme Code and Advertising Code, whether the penal provisions should be adopted mutatis mutandis? If not, what modifications are required? Please provide your comments with necessary justifications. The Broadcasting (Television Programming, Television Distribution and Radio) Services*

Considering that FM radio stations are operating in very small towns with low revenue potential of Rs fdw lacs per annum, it is suggested that the existing penalties as per current Grant of Permission Agreement are appropriate.

Penalties for unauthorised broadcast etc as laid in Section 41 to 44 of Telecommunications Act shall of course apply. Third Schedule of Act is fine, but the reading of the Act does imply that Government can give warnings for first offences.

For violations of program Code, warning should be given for first offences (except for violation of National Security) and thereafter for subsequent wilful offences and violations, the said penal provisions can apply. The media organisations are governed under respective self regulation mechanisms for content and all complaints may kindly be first routed through them for self correction.

*Q9. A preliminary draft of Common terms and conditions for inclusion in the second set of Rules for Broadcasting (Television Programming, Television Distribution and Radio) Services is annexed as Part-I of Annexure-III for consultation. Stakeholders are requested to submit their comments in the format given below, against the terms and conditions and indicate the corresponding changes, if any, with necessary reason and detailed justification thereof. S. No. Description Terms and conditions No. Proposed changes, if any Reasons with detailed justification*

- 1. Definitions*
- 2. Assignment of Spectrum*
- 3. Equity Holding in Other companies*
- 4. Renewal of Authorisation*
- 5. Modifications in the Terms and Conditions of Service Authorisation*
- 6. Non-Exclusivity clause*
- 7. Restrictions on Transfer of Service Authorisation*
- 8. Provision of Service*
- 9. Reporting Requirement w.r.t. Eligibility Conditions*
- 10. Adherence to Programme Code and Advertisement Code*
- 11. Financial Conditions*
- 12. Commercial Conditions*
- 13. Technical Conditions*
- 14. Disaster/ Emergency/ Public Utility Services*
- 15. Operating Conditions*
- 16. Confidentiality*
- 17. Force Majeure*
- 18. Dispute with Other Parties*
- 19. Dispute Resolution and Jurisdiction*
- 20. Contravention of Rules/ Violation of Programme Code and Advertisement Code*

*The Broadcasting (Television Programming) Services*

Please refer Clause 4 . Table 5.1.

Since extension terms of other communication mediums are defined, extension of FM radio license may kindly be defined as 15 years, as was done in last migration in 2015. There is no reason to single out FM radio by keeping extension period undefined only for FM radio..

*Q10. Whether any changes are required in the extant eligibility conditions in respect of minimum net worth for inclusion in the Rules to be made under the Telecommunications Act, 2023 for the following service authorisations? i. News & Current Affairs TV Channel ii. Non-news & Current Affairs TV Channel iii. Teleport/ Teleport Hub Stakeholders are requested to provide their comments with detailed justification.*

These are fine for FM Radio

*Q11. Whether any changes are required in the extant processing fee (for new authorisation/renewal), annual authorisation fee (erstwhile annual permission fee) and other fees applicable on the following for the formulation of the terms and conditions of the authorisation for these services? i. Uplinking of a Television Channel ii. Downlinking of a Television Channel iii. News Agency for Television Channel(s) iv. Teleport/ Teleport Hub v. Any other services related to Television Channels Stakeholders are requested to provide their comments with detailed justification.*

*Q12. Whether any changes are required in the extant security deposit and performance bank guarantee applicable on the following for the formulation of the terms and conditions of the authorisation for these services? i. Uplinking of a Television Channel ii. Downlinking of a Television Channel iii. Teleport/ Teleport Hub iv. Purchase/hiring and use of SCG equipment Stakeholders are requested to provide their comments with detailed justification.*

*Q13. A preliminary draft of terms and conditions for inclusion in the second set of Rules for The Broadcasting (Television Programming) Services is annexed as Part-II of Annexure-III for consultation. Stakeholders are requested to furnish their comments in the specified format given below, against the terms and conditions and indicate the corresponding changes, if any, with necessary reason and detailed justification thereof.*

117 S. No.	Description	Terms and Conditions	No. Proposed changes, if any	Reasons with detailed justification
<i>Satellite-based Broadcasting of a Television Channel</i>				
<i>i. Uplinking of a Television Channel</i>				
1.	Operational Status	2.	Special conditions for uplinking a satellite television channel	3.
4.	Transfer of authorisation of a TV channel	5.	Renewal of Authorisations	6.
<i>Purchase/ hiring and use of SCG equipment</i>				
<i>6. Live Telecast</i>				
<i>ii. Downlinking of a Television Channel</i>				
1.	Operational Status	2.	Special conditions for downlinking a TV channel	3.
4.	Transfer of authorisation of a TV channel	<i>iii. Uplinking and Downlinking of a Television Channel</i>		
<i>All the terms and conditions of uplinking of TV channel and downlinking of a Television Channel shall be applicable here</i>				
<i>Ground-based Broadcasting of a Television Channel To be framed, once a policy decision is taken by the Government, in this regard.</i>				
<i>News Agency for television channel(s)</i>				
<i>1. Special conditions for News Agency for Television Channel</i>				
<i>2. Renewal of Authorisation</i>				
<i>118 Teleport/Teleport Hub</i>				
<i>1. Operational Status</i>				
<i>2. Special Conditions</i>				
<i>3. Renewal of Authorisation</i>				
<i>4. Transfer of authorisation of a Teleport/ Teleport Hub</i>				
<i>5. Purchase/ hiring and use of SCG equipment</i>				
<i>Coverage of Live Event by Foreign Channel</i>				
<i>1. Terms and Conditions</i>				
<i>Other services related to Broadcasting (Television Programming) Services</i>				
<i>1. Purchase/ hiring and use of SCG equipment</i>				
<i>2. Live telecast by a news and current affairs channel</i>				
<i>3. Live telecast of an event by a non-news and current affairs channel</i>				
<i>4. Change of name and logo of a TV channel</i>				
<i>5. Change of satellite/ teleport</i>				
<i>6. Intimation of</i>				

*change of language/mode of transmission, etc. 7. Change of category of a TV channel 8. Change in operational status The Broadcasting (Television Distribution) Services*

*Q14. Whether the extant eligibility requirement in respect of minimum net worth is required to be harmonized under the 119 terms and conditions of authorisation for DTH and HITS services? a. If yes, what should be the quantum of minimum net worth for these services? b. If no, reasons thereof. Stakeholders are requested to provide their comments along with detailed justification.*

*Q15. Whether the following parameters applicable for DTH and HITS services should be reviewed while framing the terms and conditions of authorisation for these services? If yes, please suggest changes required, if any, on the following aspects, with detailed justifications: a. Period of authorisation (erstwhile license/ permission) b. Processing Fee c. Entry Fee d. Authorisation Fee (erstwhile License Fee) e. Bank Guarantee f. Renewal Fee*

*Q16. A preliminary draft of terms and conditions for inclusion in the second set of Rules for the Broadcasting (Television Distribution) Services in respect of Distribution Services (DTH/ HITS), is annexed as Part-III of Annexure-III for consultation. Stakeholders are requested to render their comments in the format specified in the table given below, against the terms and conditions and indicate the corresponding changes, if any, with necessary reason and detailed justification thereof.*

<i>120 S.No .</i>	<i>Description</i>	<i>Terms and Condi tions</i>	<i>No. Proposed changes, if any</i>	<i>Reasons with detailed justifi cation</i>
<i>1.</i>	<i>Authorisation Fee</i>	<i>2.</i>	<i>Bank Guarantee</i>	<i>3.</i>
<i>3.</i>	<i>Vertically Integrated Entity: Reserving of operational channel carrying capacity</i>	<i>4.</i>	<i>Non Transferable</i>	<i>5.</i>
<i>6.</i>	<i>Sharing of Infrastructure by DTH operators</i>	<i>7.</i>	<i>Prohibition of certain activities</i>	<i>8.</i>
<i>9.</i>	<i>Technical Standards and Other Obligations</i>	<i>9.</i>	<i>Mandatory sharing/carrying of broadcast certain signals with Prasar Bharati</i>	<i>10.</i>
<i>10.</i>	<i>Value Added Services (VAS)</i>	<i>11.</i>	<i>Miscellaneous HITS Services</i>	<i>1.</i>
<i>1.</i>	<i>Mandatory sharing/carrying of broadcast certain signals with Prasar Bharati</i>	<i>2.</i>	<i>Technical Standards and Other Obligations</i>	<i>3.</i>
<i>3.</i>	<i>Sharing of Infrastructure by HITS operator</i>	<i>4.</i>	<i>Value Added Services (VAS)</i>	<i>5.</i>
<i>5.</i>	<i>Prohibition of Certain Activities</i>	<i>6.</i>	<i>Miscellaneous</i>	<i>121</i>

*Q17. The extant IPTV guidelines dated 08.09.2008 may be required to be amended to align with the provisions of the Telecommunications Act, 2023. A preliminary draft of terms and conditions for providing IPTV Services is annexed as PartIII of Annexure-III for consultation. Stakeholders are requested to provide their comments including addition/ modification/ deletion required, if any, with detailed justification. Q18. Is there a need to review the minimum net worth requirement of Rs. 100 crore for ISPs to provide IPTV services, while framing the terms and conditions for provision of IPTV services in the new authorisation regime and whether it should be aligned with the terms and conditions of authorisation of Internet Services by Department of Telecommunications? Please provide your comments with detailed justification. The Broadcasting (Radio) Services*

*Q19. In order to unbundle the authorisation from the spectrum allocation, the authorisation for providing FM Radio services is required to be obtained first, and thereafter an authorised entity is allowed to participate in the e-auction process for allocation of spectrum in a particular city. In such a scenario, stakeholders are requested to provide their comments with detailed justification on the following: a. Whether the scope of service for the FM radio service be made Pan-India instead of City*

to allow an authorised entity to participate in e-auction process of any City in India? b. What should be the prescribed entry fee, processing fee requirement for obtaining such FM Radio broadcasting service authorisation? c. What should be the minimum net-worth requirement for obtaining service authorisation for FM Radio broadcasting services?

There should be no additional fees once auctions are done and One Time Entry Fee determined. It should be all inclusive. Annual WPC fees should be prescribed in advance for period of authorization, so that auction participants are aware of these costs and the auction process is transparent on all costs and fees to Government,

To avoid interference between two radio stations, a minimum frequency gap has been prescribed and accepted, ie 800 mhz. Any reduction thereof should be first verified for interference and the consent of existing operators taken.

Digital transmission can take place between the 800mhz gap . For already allotted frequency for analog broadcasting, both analog and digital transmission will operate on simulcast basis, till digital receivers penetrate mass population and thereafter Government mandates digital transmission.

To ensure no interference and disruptions , existing operators in analog transmission be allowed to simulcast both digital and analog transmissions. If a third party is allotted digital transmission in allotted frequencies ( which will currently be at far lower bids), disruptors can enter who may interfere with analog broadcasts and thereby cause immense losses to existing operators.

Frequency bandwidths available outside the allotted bandwidths of 800 mhz can however be auctioned to third parties for digital transmissions.

*Q20. A preliminary draft of terms and conditions for inclusion in the second set of Rules for the Broadcasting (Radio) Services is annexed as Part-IV of Annexure-III for consultation. Stakeholders are requested to furnish their comments in the specified format given below, against the terms and conditions and indicate the corresponding changes, if any, with necessary reason and detailed justification thereof.*

S. No.	Description	Terms and Conditions	No. Proposed changes, if any	Reasons with detailed justification on FM Radio Broadcasting
1.	Restructuring of Entity			
2.	Restrictions on operation of Multiple channels in a city			
3.	Cross Media Ownership			
4.	Annual Authorisation Fee			
5.	News and current affairs programmes			
6.	Programme Content			
7.	Prohibition of Certain Activities			
8.	Penalty for Non operationalisation of services			
9.	Networking			
10.	Technical Parameters and Standards			
11.	Number of Frequencies			
12.	Co-location			
13.	Frequency allocation and SACFA clearance			
14.	Mandatory sharing of certain broadcast signals with Prasar Bharati			
15.	Monitoring and requirement to furnish information			
16.	Inspection			
17.	Surrender of Authorisation			
18.	Provisions relating to data broadcasting services in FM/ Digital sub carriers			
19.	Miscellaneous			
20.	Community Radio Stations			
1.	Content regulation & monitoring			
2.	Imposition of penalty/ revocation of Authorisation			
3.	Transmitter Power and Range			
4.	Funding & Sustenance			
5.	Other Terms and Conditions			
1.	Low Power Small Range FM Radio			
2.	Provision of Low Power Small Range FM Radio Broadcasting			
3.	Low Power Small Range FM Radio Broadcasting Service Obligations			
4.	Digital Radio Broadcasting			
124	To be decided based on the outcome of the Consultation process of Digital Radio Broadcast policy, which is under progress			

*separately. However, there may be a possibility of adoption of the terms and conditions applicable for FM radio mutatis-mutandis for Digital Radio Broadcasting. Any Other Issue*

Our clause wise recommendations / requests are as below.

#### Clause 5 News and Current Affairs Programs

5.1 Only direct repeat of AIR programs is allowed in drafts.

Trai in its various recommendations from 28. Nov 2008 to dated 5 September 2023, has been recommending right to source and broadcast News and Current Affairs from authorized news providers including televisions, news agencies etc.

The same should be added in the draft rules.

5.2 Live coverage and broadcast of national sports events should also be allowed.

#### Clause 6.2 Public Interest Announcements

The term Public Interest Announcement for free broadcast should be defined clearly.

We suggest – Public Interest Announcement means an announcement on a national or local issue that directly affects the health and safety of citizens in the area. It excludes announcements of political nature as well as dissemination of welfare schemes of various governments from time to time.

Clause 6.3 50% broadcast of national content.

Broadcast of English and foreign language music should not be capped at 50 percent. There are many channels that are based on broadcast of English music. The restriction of 50 percent should be for non music content.

#### Clause 10. Technical Parameters / Authorized ERP

Trai had recommended in its recommendations on consultation paper dated 8.1.2008 that the FM channels should cover district level so that rural and semi urban areas get the benefit of this media.

The technical parameters need to be changed so that coverage covers district.



#### Clause 11. Number of Frequencies

This clause is fine but should override any conflicting clauses mentioned in any other general rules ,

#### Clause 12. Co location

Co location with Government infrastructure should not be mandatory. This should be clearly specified.

Mandatory co – location gives right to Prasar Bharti and other Government agencies to overcharge for infrastructure as the operators have no option but to accept any charge.

Q21. Stakeholders may provide other comments, if any, relevant to the issues related to terms and conditions, including regulatory fees for the broadcasting services authorisations with justifications thereof.