

27 November 2024

By Email and Hand

**Telecom Regulatory Authority of India**  
World Trade Centre-Tower F  
Nauroji Nagar  
New Delhi – 110029

**Subject: Response to TRAI's Consultation Paper on Framework for Service Authorizations for provision of Broadcasting Services under the Telecommunications Act, 2023**

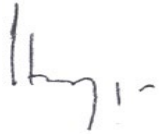
**Kind Attn: Mr. Deepak Sharma, Advisor (B&CS)**

Dear Sir,

We thank the TRAI for this opportunity to express our views on the above-captioned Consultation Paper.

Tata Play's response to the same is attached for your ready reference.

Yours faithfully,



**Harit Nagpal**  
Managing Director and CEO

Enclosed: As above

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## TATA PLAY'S COMMENTS DATED 27 NOVEMBER 2024 TO TRAI'S CONSULTATION PAPER ON FRAMEWORK FOR SERVICE AUTHORISATIONS FOR PROVISION OF BROADCASTING SERVICES UNDER THE TELECOMMUNICATIONS ACT, 2023

**Q1. Under Section 3(1) of the Telecommunications Act, 2023, the Applicant Entity may be granted an authorization, in place of the extant practice of the grant of license/ permission from the Central Government. The terms and conditions governing the respective authorization 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 Authorized Entities of the various broadcasting services? Kindly provide a detailed response with justifications.**

### **Tata Play Comments:**

- **Parity in License/Authorization Fee:** DTH platforms presently pay an exorbitant License Fee calculated at 8% of AGR in addition to Entry Fee, Bank Guarantee, Spectrum charges etc. To remove disparity of compliances, we request that all broadcasting services including OTT platforms, MSOs, LCOs, Prasar Bharti and Broadcasters are brought at par in terms of License Fee.
- **Exemption of OTT services from paying License Fee:** OTT Platforms provide the same service as DTH platforms but are not required to pay any License Fee at all, causing unjustified financial burden for the DTH players.
- **Request to implement TRAI Recommendations:**
  - TRAI Recommendations on 'License Fee and Policy Matters of DTH Services' whereby it is recommended, *inter alia*, that the DTH License Fee should be brought down to 3% of AGR and to be made zero by 2026-27, should be made applicable at the earliest.
  - While one year has already passed since the TRAI came out with the said Recommendations, the MIB has yet not made it applicable and the industry is suffering as a consequence.
- **Cross Media Ownership restriction:** No such restriction should be imposed on the broadcasting and distribution industry as it will only stifle growth and impede investments in a sector which is already over regulated.

**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.**

### **Tata Play Comments:**

- **Broadcasting and Distribution services to be added:** The draft definition of "Authorization" presently only includes Telecommunication Services. Broadcasting and its Distribution Services should

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be added to the definition to make it holistic and include all stakeholders of broadcasting services. The draft definition is reproduced below for easy reference.

- (2) “authorisation” means a permission, by whatever name called, granted under the Telecommunications Act, 2023 for—
- (i) providing telecommunication services;
  - (ii) establishing, operating, maintaining or expanding telecommunication networks; or
  - (iii) possessing radio equipment;

- **Inclusion of OTT Platforms:** Additionally, OTT Platforms should be brought under the garb of Authorization for compliance parity amongst platforms.

**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/ modifications/ deletions are required in the Scope of Service and Service Area, along with necessary justifications.**

**Tata Play Comments:**

- We are okay with the Scope of Service and Service area mentioned for DTH Platforms.
- However, we urge the Authority to also include OTT Platforms in the list for parity as such platforms provide a substitutable service to end customers without any regulatory framework to check and mandate compliance.

**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.**

**Tata Play Comments:**

- The draft format for the Authorization document does not seem to reflect the details required for DTH authorization. We request the Authority to add such details in the draft or issue a separate draft for DTH platform authorization.

**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.**

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- **Definitions:** The definition of 'Authorization' needs to be revised to include Broadcasting and Distribution services along with OTT platforms.
- **Scope of service and Service Area:** We are fine with the Scope of Service and Service area mentioned for DTH. However, OTT platforms need to be added to the said list for level playing field.
- **Eligibility Conditions:** No comments.
- **Provision of Broadcasting Services:** Only DTH platforms are required to pay a heavy License Fee of 8% of AGR. For creating a level playing field, either License Fee should be done away with entirely or should be imposed on all platforms.
- **Processing Fee, Entry Fee, Bank Guarantee, Security Deposit and Renewal Fee:**
  - **Bank Guarantee:** The annual Bank Guarantee requirement for DTH Platforms should be brought down to and fixed at 5 crore per year.
  - **Renewal Fee:** No Renewal Fee should be imposed in case of renewing the DTH License/Authorization as the industry is already saddled with License Fee unlike other stakeholders, which is unjust and unfair.
- **Process of Application to obtain the Service Authorization:** For all government authorizations (MIB, SACFA, SATCOM etc.), there should be single window grant of permission in place for ease of doing business.
- **Grant of Service Authorization:**
  - **License Fee:** The provision of License Fee payment by DTH Platforms alone should be done away with or should be uniformly imposed on MSOs, LCOs, Prasar Bharti and OTT platforms.
  - **Inclusion of OTT platforms:** OTT platforms should also be mandated to require due permission and pay authorization fee under the Telecommunications Act, 2023 for operation in India.
- **Validity Period:** The Authorization validity for DTH Authorization should be 20 years.
- **Non-Exclusivity Clause:** No comments.
- **Conditions for assignment and use of spectrum:** The present process should continue.
- **Migration of existing service providers:** The existing permission holders should be allowed to migrate to the new authorization framework for the remaining period of validity without any additional cost or continue in the present regime till the validity expires as deem fit by such permission holders.
- **Security Conditions:** No comments.

**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.**

#### **Tata Play Comments:**

- OTT platforms and Prasar Bharti to be included in the category of Broadcasting Distribution Platforms for a level playing field as presently there is no regulatory framework mandated for such platforms even though they are distributing same/similar content to the users.

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**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.**

**Tata Play Comments:**

- The existing permission holders should be provided an option to migrate to the new authorization framework for the remaining period of validity without any additional cost or continue in the present regime till the validity expires as deemed fit by such permission holders.

**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. 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.**

**Tata Play Comments:**

- **Interest Clause to be removed:** The clause for interest payment of 1% per annum provided in the DTH Guidelines should be removed as the DTH industry is already under heavy financial burden due to License Fee payment.
- **Programme Code and Advertising Code:** The extant penal provisions for contravention of Programme and Advertising Code should continue as is since it is sufficient in regulating the industry.

**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.**

**Tata Play Comments:**

- **Equity Holding in other Companies:** Following the global industry practices, any restriction on cross-media ownership should be removed as it only impedes the growth of the sector and also slows down the investments in the industry.

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➤ **Financial Conditions:**

- **License Fee:** The provision of License Fee payment by DTH Platforms alone should be done away with or should be uniformly imposed on MSOs, LCOs, Prasar Bharti and OTT platforms.
  - **Interest Payment:** The clause for interest payment of 1% per annum provided in the DTH Guidelines should be removed as the DTH industry is already under heavy financial burden due to License Fee payment.
  - **Bank Guarantee:** The annual Bank Guarantee requirement for DTH Platforms should be brought down to and fixed at 5 crore per year.
- **Renewal of Authorization:** No renewal fee should be imposed for renewal of DTH License/Authorization.

**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?**

- News & Current Affairs TV Channel**
- Non-news & Current Affairs TV Channel**
- Teleport/ Teleport Hub**

Stakeholders are requested to provide their comments with detailed justification.

**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?**

- Uplinking of a Television Channel**
- Downlinking of a Television Channel**
- News Agency for Television Channel(s)**
- Teleport/ Teleport Hub**
- 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 authorization for these services?**

- Uplinking of a Television Channel**
- Downlinking of a Television Channel**
- Teleport/ Teleport Hub**
- 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**

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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.

**Q14. Whether the extant eligibility requirement in respect of minimum net worth is required to be harmonized under the 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.**

#### **Tata Play Comments:**

- No comments.

**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**

#### **Tata Play Comments:**

- We maintain our stance as submitted in the aforementioned responses.

**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.**

#### **Tata Play Comments:**

- Authorization Fee:
  - **License Fee:** The License Fee/Authorization fee should be completely done away with for DTH platforms as the same is an unfair and unjust demand and opposes the idea of level playing field.
  - **TRAI Recommendations:** TRAI Recommendations on License Fee wherein it was stated that the License Fee should become zero by 2026-27 should be made applicable at the earliest by the MIB.

**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 Part III of Annexure-III for consultation. Stakeholders are requested to provide their comments including addition/ modification/ deletion required, if any, with detailed justification.**

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**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.

**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 authorized 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?

**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.

**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.

**Tata Play Comments:**

➤ No comments.

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