RJIL/TRAI/2024-25/30
30th April 2024

To,
Shri Tejpal Singh,
Advisor (B&CS),
Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhawan
Jawaharlal Nehru Marg, New Delhi - 110002

Subject: **RJIL's comments on TRAI's Consultation Paper on Inputs for Formulation of "National Broadcasting Policy-2024"**

Dear Sir,

Please find enclosed the comments of Reliance Jio Infocomm Limited (RJIL) on the Consultation Paper dated 02.04.2024 on "**Inputs for Formulation of National Broadcasting Policy-2024**".

Thanking you,

Yours Sincerely,
For **Reliance Jio Infocomm Limited**

Ravi Parkash Gandhi
Chief Regulatory Officer

Enclosure: As above

Reliance Jio Infocomm Limited's

Response to TRAI's Consultation Paper on

Inputs for Formulation of ''National Broadcasting Policy-2024''

A. Preamble:

1. We express our gratitude to TRAI for allowing us to provide our perspectives on this important Consultation Paper. National Broadcasting Policy-2024 (NBP-2024) will be pivotal in defining the sector's growth and trajectory in the decades ahead.

2. At the onset, we firmly believe that the National Broadcasting Policy 2024 (NBP-2024) should be underpinned by the following broad principles to drive comprehensive growth across the sector:
   a) Facilitating the growth and innovation of the broadcasting industry by creating an environment that encourages investment and fosters technological advancements.
   b) Encouraging investments within the sector while providing a stable and predictable regulatory landscape.
   c) Establishing a level playing field for all stakeholders, thereby promoting healthy competition and sustainable development within the industry.
   d) Enhancing the ease of doing business by streamlining and simplifying various processes.
   e) Allocating spectrum for broadcasting services through transparent auction mechanisms, considering the competition for spectrum acquisition due to its limited supply and high demand.
   f) Promoting regulatory certainty by maintaining continuity in the current licensing framework.
   g) Encouraging the creation of indigenous, culturally enriching content and facilitating its dissemination through various mediums.
   h) Embracing a regulatory philosophy of forbearance for broadcasting services, limiting intervention to areas where market failure poses a threat.

3. The Consultation Paper touches upon various aspects that are Significant for the Industry. We recognize the importance of the issues highlighted in the Consultation Paper - in shaping the future of the broadcasting industry in India. However, we would like to begin by offering our perspectives on a few important aspects that warrant utmost attention.

4. **Embrace a Policy of Forbearance for the Television Broadcasting Sector:**

    a. The prevailing regulatory framework, commonly known as New Tariff Order (NTO) imposes extensive regulations on nearly all aspects of the television broadcasting industry. This excessive control has significantly constrained the industry's capacity to adapt and cater to consumer demands in line with market forces, thereby hindering its flexibility and responsiveness. .

    b. Despite several amendments being made to the NTO, they have failed to address the fundamental flaws within the NTO. Consequently, this has led to numerous litigations, with every amendment to the NTO being challenged in the courts. This has adversely impacted the investors' confidence in the broadcasting sector.

    c. The NTO framework stands in stark contrast to the forbearance-based approach adopted by TRAI in the telecommunications sector, where significant growth has been propelled by the competitive market forces.

    d. NBP-2024 should aim to attract investments into the sector. Achieving this requires granting forbearance to the industry, empowering it to meet market demands and offer innovative services to customers**. The regulatory interventions should be limited solely to** areas **where there are concerns about market failure or instances where service providers are unable to reach an agreement.**

5. **Promote level playing field between Public Sector Units (PSUs) and Private Industry:**

    a. **NBP-2024 should strive to uphold a level playing field between the PSUs and the Private Industry, in cases where they offer competing services**. If a PSU operator provides services that directly competes with the private sector, it must be subject to the same rules and regulations as applicable to private industry players. Failure to do so, would grant an unfair advantage to the PSU operator, rendering the business environment unviable for private industry participants.

    b. In this context, DD Free Dish enjoys regulatory arbitrage over the private distribution platform operators (DPOs) as the regulatory framework has not been applied to it. Despite being a Free-to-Air (FTA) platform, DD Free Dish operates on a commercial model and generates revenues from broadcasters. However, it is not subject to the same regulations as its private counterparts.

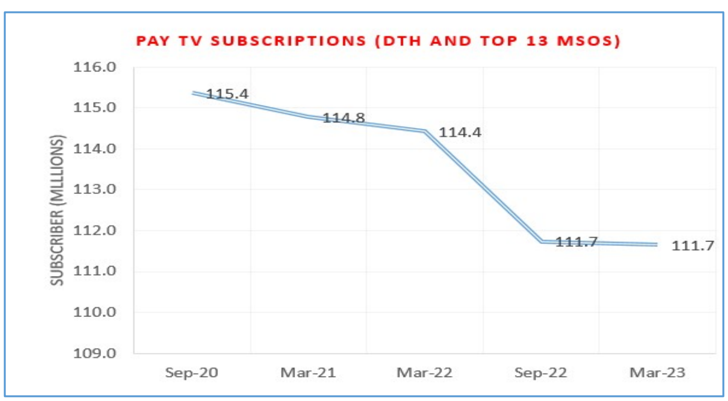
c. The non-enforcement of regulatory provisions leads to disparities between it and Private DPOs as mentioned below:

   i. Several pay channels are available for free on DD Free Dish platform, while private DPO are required to collect subscription fees from viewers and pay a major part (65% to 80%) to the broadcasters

   ii. DD Free Dish can charge broadcasters carriage fees at market-determined prices through auctions (as high as INR 22 Crores), while other private DPOs are mandated to allocate their channel capacity on a first come first serve basis and can charge only a nominal carriage fee (capped at INR 48 lakhs for SD channels), that also is reduced to zero once the channel is subscribed by around 20% of subscribers.

   iii. **Private DPOs are required to pay subscription charges to broadcasters, which is potentially used by broadcasters for paying carriage fee to DD Free Dish. This creates an unfair situation wherein private DPOs end up indirectly funding their biggest competitor** through the subscription charges paid to broadcasters.

d. Due to its free-to-air services, DD Free Dish is attracting customers away from other private DPOs. The below graphs show how DD free Dish has grown whereas Private DPOs have seen customers erosion:



Source: TRAI Reports

Source: https://pib.gov.in/PressReleasePage.aspx?PRID=1811893

e. DD Free Dish's subscriber base has grown by almost 100% between 2017 and 2022. As per Industry estimates, currently DD Free Dish has 45 million customers. The private DPOs, on the other hand, continue to face decline in their subscriber base.

f. In contrast to the broadcasting sector, regulatory parity is maintained between (PSUs) and private operators (TSPs) in the telecommunications sector. BSNL/MTNL, the PSU telecom service providers offer competing telecom services under the same regulatory framework as applicable to private telecom service providers, thus ensuring a level playing field.

g. We acknowledge that the Consultation Paper mentions that the issue of regulatory parity between DD Free Dish and other DPOs is being deliberated upon in the separate consultation on the "Regulatory Framework for Broadcasting Services."

h. However, we believe it is pertinent to highlight this issue within the current consultation as well, in order to emphasize the adverse impact of the regulatory imbalance between the public sector operator (DD Free Dish) and private industry players. NBP-2024 should enshrine the principle of maintaining a level playing field between public sector units (PSUs) and private sector service providers operating in the same domain.

6. Direct to Mobile (D2M) broadcasting services:

a. Recently there has been a lot of discussion around direct to mobile (D2M) broadcasting services to facilitate the transmission of video content directly to the subscribers' mobile phones without the internet connection. All such discussions have been around the assignment of free spectrum through MIB to provide D2M services. .

b. Creation of such D2M services, allocating free spectrum via MIB, would enable the D2M providers to provide the same services (Video Content/ Linear Content) as being provided by the telecommunication service providers (TSPs) using the spectrum procured by them through the auctions at auctioned-determined prices. Thus, in such **D2M services provided on the free spectrum assigned through MIB, will lead to a non-level playing field between the D2M services and the services provided by the TSPs.**

c. The proponents of D2M services claim that these services are complementary to the services provided by TSPs as D2M will help in decongesting the cellular mobile networks. We believe that the same is not true as cellular mobile networks have sufficient capacities to handle the video traffic. In fact majority of the traffic being handled by telecom networks (i.e. around 80%) is video traffic only. After the launch of 5G, TSPs have built sufficient capacity in cellular networks to handle video traffic of all channels even in a worst-case scenario i.e. all subscribers using the video streaming services concurrently in good quality. **Thus, the D2M services are not complementary but are competing services to the services provided by TSPs and all such claims of decongesting the cellular networks are being put forward to acquire spectrum free of cost and provide the mobile services without requisite license.**

d. Moreover, D2M aims to utilize the precious spectrum in 526-582 MHz band (sub-GHz bands). This band has excellent propagation characteristics and can be extremely valuable to telecommunication services providers to add capacities to their mobile networks.

e. Therefore, to maintain a level playing field between the D2Ms and the TSPs, the spectrum for D2M services must be allocated by auctioning it in a technology and service neutral manner. The successful bidder must be able to use this spectrum for providing any service using any technology.

f. This will also safeguard the revenue of the National Exchequer, and ensure that precious spectrum is utilized for by the most relevant and efficient technologies, thereby optimally serving the interests of the nation and the economy.

With the above background, we now proceed to provide our responses to the issues raised in the Consultation Paper.

B. Response to issues raised in Consultation Paper:

Q1. Stakeholders are requested to provide their inputs in framing the Preamble, Vision, Mission and Broad Objectives for the formulation of the National Broadcasting Policy (NBP).

Response:

We believe that the governing principle of a policy framework – for any sector - is to ensure its orderly growth and to protect the interests of all stakeholders involved. In the broadcasting sector, stakeholders encompass diverse groups such as service providers and subscribers. This sector also plays a pivotal role in information dissemination, and framing the national opinion. Therefore, the NBP-2024 should adopt measures that ensure welfare of the nation, its citizens, and the various service providers. The well-being of service providers includes safeguarding the interests of its employees and its customers.

The NBP-2024 should incorporate provisions to facilitate timely structural and procedural reforms within the sector, similar to those implemented in the telecom sector. These reforms should aim to enhance the ease of doing business and attract investments into the broadcasting sector.

In view of the above, we believe that the Preamble, the Vision, the Mission and the Broad objectives of the NBP should incorporate the following principles:

a) Create an environment that encourages investment, fosters technological advancements, and drive industry's growth
b) Provide regulatory certainty, and thereby attract investments into the sector.
c) Create a level playing field for all stakeholders, thereby promoting healthy competition and sustainable development within the sector.
d) Promote ease of doing business by simplifying various processes.
e) Assign spectrum for broadcasting services transparently via auctions.
f) Promote regulatory certainty by continuation of the current licensing framework.
g) Encourage creation of indigenous and culturally enriching content, and promote its dissemination through the various mediums
h) Promote forbearance in the regulatory framework for broadcasting services, by limiting the regulatory intervention to only those areas where there is a threat of market failure.

Q2. There exist data gaps in ascertaining contribution towards economy, revenue generation, employment generation, subscription figures etc. in the broadcasting sector which relies heavily on industry studies to carry out research and estimates. What should be the parameters, targets and institutional framework for measurement? Provide your comments with detailed justification. Also provide the indicative metrics used for calculating the targeted figures, if possible.

Response:

We believe that the Industry reports, estimates and surveys are important tools to track the broadcasting industry on key metrics. These tools help assess industry's contribution towards economy, revenue generation, direct and indirect employment creation, subscription figures, etc. Broadly, parameters may be tracked on the following lines:

a. Subscription Figures: The number of subscriptions remains the key metric for evaluating the reach of broadcasting services.

b. Contribution to Economy: The key parameters that can be tracked include Gross Value Added (GVA) and GDP contribution. Besides its direct contribution, the broadcasting sector has a significant indirect impact on the economy as it helps in information dissemination and stimulating economic activity. Therefore, studies may be initiated to measure these indirect economic impacts.

c. Capital and other Expenditure: The investments in infrastructure, technology upgrades, content production, and other capital expenditures can be measured. These can be helpful in assessing the sector's growth prospects and its ability to innovate and remain competitive.

d. Revenue Generation: The revenue of various service providers within the Industry may be measured. The revenue trends may be assessed to analyse the impact of policies on the sector. Further, financial health and profitability of the Industry can be tracked for timely policy enablement in case of any noticeable deterioration in the health of the industry.

e. Employment: The broadcasting sector contributes direct and indirect employment opportunities across various segments for content production, content distribution, technological development etc. The employment figures across the complete value chain need to be factored in while measuring employment contribution by the Industry.

We must continue to use these tools to track the key metrics and monitor industry performance, trends.

Q3. Please suggest the strategies to be adopted by the Government and industry for propelling the growth of broadcasting sector w.r.t. the following:

i. Provisioning of affordable television services in 'TV Dark' households;

ii. Augmenting R&D capabilities and promoting indigenous manufacturing of broadcasting equipment

iii. Employment generation with emphasis on skill development;

iv. Promotion of innovation led Start-ups and SMEs;

v. Any other related area/strategy Please elaborate with detailed reasoning.

Response:

1. The primary objective of the policy framework should be to attract investments in the sector, drive growth, provide advanced, enriched, affordable services, while leveraging technology advancements. This will lead to job creation, indigenous technology development, and catalyse local equipment manufacturing.

2. As articulated in the preamble of our response, we emphasize that the NBP-2024 should promote forbearance based approach in the broadcasting sector. **The regulation should be limited to only those areas where there are concerns about market failure or in cases, where service providers fail to enter into agreement.**

3. We also suggest that an incentive based approach may kindly be adopted connect the unconnected households. Since many of the DPOs are also providing fixed line telecommunication services, license fee on fixed line telecommunication services may kindly be waived off at an earliest to incentivize the penetration of both TV services as well as internet services in the country.

4. Government can also provide subsidy for TV and Cable broadcasting services that will help TV dark households and will help in their digitization.

Q4. What other policy and regulatory measures should be adopted in the policy for creation and expansion of quality Indian content to make India the 'Global Content Hub'? Further, suggest how to extend support to local talents and content developers in terms of training, infrastructure and incentives. Provide your comments with detailed explanation.

Response:

Indian content enjoys significant popularity across various regions and has gained recognition in various countries. To further enhance the popularity and expansion of Indian content, the Government could promote it on an international level at various events and through agreements with various countries. Domestically, the Government could encourage and incentivize various initiatives taken by stakeholders to promote Indian art and culture. To address the requirement of enhancing the production of local content, Government can support skill development and providing a stable regulatory environment.

Q6. What broad guiding principles, measures and strategies should be considered in the NBP to strengthen India's public service broadcaster (i.e. Prasar Bharati) to promote quality content creation, dissemination of DD and AIR channels and maximizing its global outreach? Also suggest, what support and measures should be provided for the proliferation of television and radio broadcasting services provided by the public service broadcaster in fulfilment of its mandate?

Response:

1. In the preamble, we have highlighted that uneven playing field between DD Free Dish and private DPOs has adversely affected the growth of private DPOs.

2. **Therefore, we reiterate that NBP-2024 should ensure that level playing field is ensured between the PSUs and the Private Industry, where they engage in the providing competing services**. A PSU operator providing the services that compete directly with the private Industry needs to be subject to the same rules and regulations. Otherwise, it will provide unfair advantage to PSU operator over the private industry and will make the Private Industry player unviable.

Q7. What policy measures and regulatory aspects should be adopted in the NBP to nudge the growth of Indian regional content through OTT platforms?

Response:

1. India is a country of vibrant and diverse culture, encompassing numerous regional languages. To meet the demand for content in regional languages, OTT content providers have been actively producing such content.

2. According to an Industry Report[1], the volume of regional OTT content surpassed that of Hindi language content in 2023 for the first time. This indicates that currently, there is no urgent need for regulatory intervention since market forces are effectively meeting the audience's requirements.

Q13. With the continuous advancement of technologies and convergence of the telecom, information technology and broadcasting sectors, what policy and regulatory measures are required, beyond the existing ones, to facilitate the growth of the broadcasting sector with ease of compliance? Elaborate your comments with proper reasoning and justifications to the following issues:

- **i. To enable healthy and competitive environment amongst the existing and emerging services and ensuring parity among comparable distribution mediums, while being technology neutral.**
- **ii. To allow and encourage infrastructure sharing among the players of broadcasting and that with the telecommunication sector.**
- **iii. Any other suggestion for policy and regulatory framework.**

Response:

1. Broadcasting is defined as one way communication from a point to a whole geography in a non-discriminatory manner. It is different from Telecommunication services which is a two-way communications facility where a user can both receive and transmit the content. While with the introduction of new technologies and deployment of high-capacity telecommunication networks like 4G, 5G and FTTH - the telecom networks have developed the capability of carrying high-definition two-way video and audio content and this may seem similar in look and feel to the one-way channels. **However, these**

[1] https://www.ey.com/en_in/news/2024/03/indian-m-e-sector-crossed-inr-2-point-3-trillion-in-2023-expected-to-reach-inr-3-point-1-trillion-by-2026-reveals-the-ficci-ey-report

development cannot eliminate the differences between the telecommunication and broadcasting sectors.

2. At present, the telecommunication services are governed under the Indian Telegraph Act, 1885 (and under Telecommunication Act, 2023 after formulation of rules), which excludes the provisioning of broadcasting services that are governed by MIB under the various laws/guidelines, such as Uplinking and Downlinking Guidelines, Cable TV Network Regulations Act or any other new law to be framed by the MIB. Similarly it is expected that the broadcasting law would also exclude the telecommunication services. Any overlap of these two distinct services (i.e. Telecommunication and Broadcasting) may create confusion and issues relating to level playing field. This in turn may lead to hesitation amongst the investors in investing in these sectors.

3. **Therefore, the broadcasting policy must ensure that there is no overlap between these two distinct services.** As per our understanding, the broadcasting includes one-way linear channel transmitted through the broadcasting networks, such as Cable TV, DTH, HITS etc., which has the capability of only one way communication. On the other hand, the telecom services under the telecom act broadly covers the two-way communication between various users (B2B or B2C) i.e. content generated by an individual and transmitted directly or distributed through a content aggregator on the internet.

4. Keeping the same in mind, we believe that the broadcasting policy would limit itself to only one-way broadcasting through the broadcasting networks as mentioned above.

Q14. What additional measures should be adopted to combat piracy and ensure content security through copyright protection in the broadcasting sector? How can the technology driven solutions be developed and deployed to prevent unauthorised distribution and detection of the source of original content. Provide your comments with detailed explanations.

Response:

1. The entire value chain in the Broadcasting Industry is dependent on the content. Therefore, protecting content against piracy is of utmost importance.

2. There is a need address content protection issues relating to equipment of service providers (i.e. CAS, SMS, DRM, Set-Top boxes etc.) by stipulating relevant requirements

i.e. in Schedule III and Schedule IX in interconnection regulations as well relevant provisions in quality of service regulations.

3. The provisions should prohibit provision and deployment of non-compliant system / equipment to any DPO. Further, DPOs can be mandated to report instances of tampering (including any attempts to tamper) to the relevant authorities.

4. We believe that strict measures should be enforced in case any DPO is found to be engaging in piracy. Immediately after discovering the involvement of DPO in piracy, it should be denied access to broadcaster channels. To monitor and arrest the instances of piracy, regional offices of MIB can be set-up on the lines of LSA (Licensed Service Area) Units of DoT or DoT LSA Units could be entrusted this responsibility. Measures are also needed to arrest the potential piracy issues due to DD Free Dish as it operates as unencrypted platform

5. The above measures will protect the interest of both broadcasters and compliant DPOs, without further straining the DPOs with financial penalties.

6. Though the telecom operators are blocking access to the pirated /copyright violating content based on the directions of the Government or the orders passed by the Hon'ble courts, it is also important to ensure that pirated / copyright violating content is removed from the hosting platforms located outside India.

Q15. What policy and regulatory provisions would be required in the policy to enable and facilitate growth of digital terrestrial broadcasting in India. Stakeholders are requested to provide strategies for spectrum utilization, standards for terrestrial broadcasting, support required from the Government, timelines for implementation, changes to be brought in the current ecosystem and the international best practices. Please provide your comments with detailed justification and proper reasoning.

Response:

1. As mentioned in the preamble of our response, the recent discussions around Direct to Mobile (D2M) broadcasting services are centred on provisioning of D2M Services over the free spectrum assigned through MIB.

2. D2M services aim to provide Video Content/ Linear Channels that are carried on the network of TSPs. The video traffic constitutes majority of the traffic i.e. around 80% of the total internet traffic. To cater to such traffic, TSPs have extensively invested in procuring spectrum through auctions and have built substantial capacities, especially after the launch of 5G services. As mentioned in the preamble, after the launch of 5G, TSPs have built sufficient capacity in cellular networks to handle video traffic of all channels even in a worst-case scenario i.e. all subscribers using the video streaming services concurrently in good quality. **Thus, the D2M services are not complementary but are competing services to the services provided by TSPs and all such claims of decongesting the cellular networks are being put forward to acquire spectrum free of cost and provide the mobile services without requisite license**.

3. The 526-582 MHz band under consideration for D2M deployment also has potential for providing mobile coverage, particularly in rural and remote areas, and within buildings in urban areas. It is identified as band for IMT/5G services in all the LSAs in coordination with Ministry of Information & Broadcasting (MIB). Therefore, this spectrum carries substantial commercial value and has huge revenue potential for National Exchequer since it is poised to be a highly sought-after resource for cellular mobile services, which utilize spectrum not only for video content delivery but also for a range of various digital services, including e-commerce, e-governance, and remote education. Given that propagation characteristics of this band and its suitability for IMT services, this spectrum can bring more value than even 600/700/800/900 MHz band to society, economy and National Exchequer

4. **Considering the competing and commercial nature of D2M services, the commercial worth of the spectrum (i.e. 526-582 MHz band) and its potential utility in cellular mobile networks, it is imperative that the assignment of this spectrum occurs exclusively through auctions, adhering to a technology-neutral approach, same service same rule and to avoid creation of regulatory arbitrage against the mobile operators**. A technology-neutral approach ensures optimal spectrum utilization. Following the assignment of spectrum through these auctions, the successful bidder can deploy it for any technology, be it cellular mobile or D2M services, thereby ensuring its optimal and versatile utilization.

Q16. How the strategies with respect to audience measurement and rating system in National Broadcasting Policy can ensure, address and encourage:

i. **Establishment of a transparent, credible, and technologically equipped television audience measurement system that accurately reflects viewer preferences and behaviour**
ii. **Expansion of the sample size to adequately represent the diverse landscape of television viewership, considering the anticipated growth in TV households**
iii. **Integration of data from non-linear sources from digital media to cover cross-platform content consumption habits**
iv. **Establishing a policy framework for conducting radio audience measurement in India**
v. **Encouraging multiple agencies to ensure healthy competition and enhancing service quality of measurement and methodologies**
vi. **Adoption and utilization of modern technologies**

Response:

1. We believe that the service providers who have two-way data transfer capability towards customers can play a significant role in enhancing the effectiveness of Audience Measurement Systems by utilizing the insights collected by them and sharing them with the interested parties. This will help in significantly increasing the sample size, bring in diversity and competition in audience measurement systems and encourage adoption of new technologies and methodologies.

2. Thus, the service providers who have two-way data transfer capability towards customers, should be allowed to gather such insights without any restrictions on voluntary basis, without any mandates. The National Broadcasting Policy should encourage such collection of data by service providers and sharing of this data with interested parties on mutually negotiated terms.

Q17. What other strategies should be adopted in the policy document for ensuring a robust grievance redressal mechanism to address and resolve complaints with respect to content as well as services effectively? Provide your comments with proper explanation.

Response:

1. We believe that the existing grievance redressal mechanism has been effective in meeting consumer requirements and there is no need for reviewing the existing provisions pertaining to grievance redressal.

2. As highlighted in the preamble, we advocate for a forbearance based approach and regulating only those aspects which cannot be catered by market forces.

Q20. Stakeholders may provide their comments with full details (measures/ strategies) and justification on any other subject matter which may be considered to be incorporated as the inputs for the National Broadcasting Policy.

Response:

1. There are certain service providers that use spectrum for the provisioning of broadcasting services. The spectrum is a national asset and thus, the National Exchequer must be appropriately compensated in case of assignment of spectrum for such broadcasting services.

2. Therefore, it must be ensured that rules and regulations should factor in the cost of spectrum used by such service providers and must include the provisions for its recovery either as upfront payments or through regulatory levies such as license fee. This will not only protect the revenue of National Exchequer but will also help in maintaining level playing field within the sector.