

**CONSULTATION PAPER ON “ISSUES RELATING TO UPLINKING AND
DOWNLINKING OF TELEVISION CHANNELS IN INDIA” ISSUED BY THE TELECOM
REGULATORY AUTHORITY OF INDIA DATED DECEMBER 19, 2017**

**TO
THE TELECOM REGULATORY AUTHORITY OF INDIA**

**FOR AND ON BEHALF OF
SONY PICTURES NETWORKS INDIA PVT. LTD.**



Dated: January 30, 2018

I. INTRODUCTION

The Telecom Regulatory Authority of India (TRAI) on July 31, 2017 had taken a welcome initiative by releasing a Consultation Paper on ‘Ease of Doing Business in the Broadcast Sector’ to address procedural bottlenecks and policy issues and thereby facilitate ease of doing business. This move was appreciated by all stakeholders including broadcasters. In the backdrop, the issues raised by the TRAI at the behest of the Ministry of Information and Broadcasting (MIB) as a consequence of its letter to the TRAI dated August 21, 2017 (“**Letter**”) seems rather regressive. The primary issue in the Consultation Paper is the proposal for auction of radio spectrum for use by satellite television channels on similar lines as for FM Radio/DTH/Telecom. Presently, satellite television channels procure uplink/downlink licenses from the MIB subject to *inter-alia* fulfilment of requisite net-worth criteria, registration of their channels and payment of uplink/downlink fee which ranges between Rs. 2 Lakhs and Rs. 15 Lakhs per annum per channel depending on whether the channels are uplinked from India or abroad and payment of temporary uplink fee (which has been recently introduced by the MIB).

We appreciate TRAI’s initiative of seeking views of the concerned stakeholders by issuing the Consultation Paper on ‘Issues relating to Uplinking and Downlinking of Television Channels in India’ on December 19, 2017’ (“**Consultation Paper**”) thereby enabling us to put forward our views on the issues raised by the MIB in its Letter and subsequently by TRAI under the Consultation Paper.

We have provided our thoughts on the specific queries outlined under the Consultation Paper herein below for your kind perusal.

Note: We have restricted our comments on issues having implications from a broadcaster’s perspective.

II. ISSUES

Definition of ‘News and Current Affairs channels’ and Non-‘News and Current Affairs Channels’

Query:

Is there any need to redefine “News and Current Affairs TV channels”, and Non-News and Current Affairs TV channels” more specifically? If yes, kindly suggest suitable definitions of “News and Current Affairs TV channels” and Non-News and Current Affairs TV channels” with justification.

[4.1 under Chapter 4]

Response:

Presently, satellite television channels are bifurcated into two broad categories *viz.* ‘News and Current Affairs TV channels’ and ‘Non-News and Current Affairs TV channels’. While in principle the present categorization seems fair, there is a definite necessity for dispensation of ‘Current Affairs’ from the definitions due to high probability for overlap resulting in ambiguity. Further, MIB considers even live uplink of an event as ‘Current Affairs’ which would mean that the live telecast of a film awards ceremony (for instance) would fall within ‘Current Affairs’.

Following are our proposed definitions for ‘News’ and ‘Non- news’ categories which would make the same completely water-tight:

News	More than 60% of the satellite television channel content for a given week averaged across a calendar quarter from 6:00 Hrs. – 26:00 Hrs. should be news, talk shows, interviews and 25% of the content should be business and finance.
Non-news	Television channels that are not News channels.

Query:

Net-worth of eligible companies

- ❖ *Should net-worth requirement of the applicant company for granting uplinking permission, and/ or downlinking permission be increased? If yes, how much should it be? Please elaborate with appropriate justification.*
[4.2 under Chapter 4]
- ❖ *Should there be different net-worth requirements for uplinking of News and non-News channels? Give your suggestions with justification?*
[4.3 under Chapter 4]

Response:

Presently separate net-worth requirements are imposed on broadcasters for downlinking/uplinking of television channels as follows:

Type	Item	Required Net Worth
Non-news and current affairs channels	First television channel	Rs. 5 crore
	Each additional television channel	Rs. 2.50 crore
News and current affairs channels	First News and Current Affairs television channel	Rs. 20 crore
	Each additional television channel	Rs. 5 crore
Teleports	For the first Teleport	Rs. 3 crore
	Each additional Teleport	Rs. 1 crore

The purpose of having these thresholds are, we believe, to ensure only serious players apply for licences. In our view, these thresholds act as sufficient entry-barrier for non-serious players and we do not see the need for enhancement in the same. Any further increase in the net-worth requirement would not only result in discouraging budding entrepreneurs but also have an adverse implication on the overall competition in the industry which eventually would adversely impact the consumers, the number of players/channels available, availability of regional channels, quality of channels/content and competitive prices at which channels are available to the consumers. This would also impact employment generation in the sector as pointed out by the TRAI in the Consultation Paper thereby harming the economy and the overall objective of the Government for employment generation and growth in the GDP.

While it is apparent that the net-worth entry barrier is sufficient and there is no need for further increase in the same, considering the investments required and the gestation period before a channel becomes profitable, maintaining the minimum thresholds may at times prove to be a challenge resulting in broadcasters compromising on the number of channels, quality of content, etc. Hence, in our opinion, once the minimum net-worth criteria have been fulfilled by broadcasters, any further obligation to maintain the net-worth should be done away with or reviewed after a reasonable gestation period of say, 2-4 years.

We would also like to bring to the attention of the TRAI, another issue faced by the broadcasters as regards net-worth. For calculating the abovementioned net-worth thresholds, MIB sends each of the applications of both existing non-news broadcasters and news broadcasters to its empanelled auditors without any mandated timelines. In addition, each of the applications are also referred to Ministry of Corporate Affairs (MCA), even though these details are available online on the website of the Registrar of Companies (ROC). Further the empanelled auditors of the MIB and the MCA do not have any accountability/face any consequences for the deferment incurred in the process due to their delayed action and therefore, the process of verification of the net worth is unnecessarily extended beyond reasonable time limit. It is also a fact that these empanelled auditors of MIB and MCA only cross-verify the Balance Sheets and Audited Account Statements certified by the statutory auditors of the concerned broadcaster companies. Invariably some query or the other is raised despite the fact that the accounts have been audited by the statutory auditors of the applicants and filed with the RoC. All this leads to avoidable delays in the timeline for issue of a licence. Further this process is repeated for every new channel licence application even if the applicant has already been issued many licences previously.

Hence, regarding the aforesaid, it is suggested that Net-worth Certificates, Balance Sheets and Audited Account Statements as certified by the statutory auditors of the concerned broadcaster companies should be the basis for processing of applications. Existing process of verifying applicant's net worth through MIB's empanelled auditors and then again through the MCA makes the entire process of ascertaining the net worth of the broadcaster complex and elongated creating unnecessary impeding elements in the entire process. The concerned finance wing of the MIB should be entrusted with the task of carrying out the verification process in a time bound manner.

Query:

Processing fee for application

Is there any need to increase the amount of non-refundable processing fee to be deposited by the applicant company alongwith each application for seeking permission under uplinking guidelines, and downlinking guidelines? What should be the amount of non-refundable processing fee? Please elaborate with justification.

[4.4 of Chapter 4]

Response:

In an age wherein digitization has been given effect by the MIB and certain modules of the Broadcast Seva portal have been activated as per the MIB circular [1404/15(T)/2017-TV(1)] dated January 03, 2018 to ease the burden of paperwork on the broadcasters, including application for temporary uplinking by satellite television channels, imposition of any separate charges towards processing fee has become redundant.

Further, vide order dated December 13, 2017 passed by the MIB [1404/15(T)/2015-TV(I)], the following processing fees per channel per day for temporary uplinking of a live event have been levied:

Type of channel	Processing Fee (in INR)
National channels	100,000/-
Regional channels	50,000/-

The rationale rendered by the MIB behind the levy was that temporary uplink of an event is tantamount to changing the character of the channel from general entertainment to current affairs. In light of our suggestion for abolition of definition of ‘Current Affairs’ channel all together for reasons mentioned in response to Query No. 4.1 above, the temporary uplink licence fee levy becomes redundant.

This step taken by the MIB in any case is regressive and acts as a deterrent for fresh players from entering into the cost-intensive broadcasting business. The requirement for SD and HD variants of the same channel carrying same feed to be considered as separate channels and permissions to be separately obtained adds a further layer to the cost burden of the broadcasters. Considering broadcasters telecast sporting events on several channels (in SD /HD formats) and multiple languages to expand viewership and increase availability, imposition of such high processing fee would only result in content availability on fewer channels and quality of content, thereby adversely impacting the consumers. In any case with a portal now in place resulting in discontinuance of paper-work, the processing fee for temporary uplinking becomes superfluous.

In the event the suggestions provided in this response of ours is not acceptable to the TRAI, the non-refundable processing fee which is presently payable at the time of seeking the unlinking/downlinking permission may at most be continued and be set off against the temporary license processing fee.

Query:

Grant of license/ permission for Satellite TV Channels

- ❖ ***Whether auction of satellite TV channels as a complete package similar to FM Radio channels is feasible? If yes, then kindly suggest the approach.***
[4.5 of Chapter 4]

Response:

1. At the very outset, please note, any comparison of FM Radio/DTH /Telecom with satellite television channels is akin to comparing chalk and cheese and is inappropriate and incorrect. The grounds rebutting the flawed analogy (as has been attempted to be drawn by the TRAI) have been provided herein below:

→ **Indian Telegraph Act (“Act”)**

The earliest enactment of significance in this regard is the Act. This Act gave power to the Government to control the establishment, maintenance and working of

wireless apparatus. Within India, the Central Government was given the exclusive privilege of establishing, maintaining and working Telegraphs¹.

Supreme Court judgement delivered by Justice P.B. Sawant and Justice S. Mohan on 9.2.1995 in the case between the Union of India & Cricket Association of Bengal² is of relevance here. In this case, the Government contended that it had monopoly on telecasting under Section 4 of the Telegraph Act 1885. The word 'Telegraph' included telecast. As the Cricket Association of Bengal (CAB) and Trans World International did not obtain licence or permission under Section 4 of the Act, it was contended that, they had no right to telecast the matches from any place in Indian territory. The CAB argued that the cricket was a form of expression through which the public entertainment was provided and thus entitled to unrestricted telecast of entertainment under Article 19(1)(a) of the Constitution of India. The Calcutta High Court held that —right to free speech and expression guaranteed under this Article includes the right to telecast and broadcast the matches and this right belongs to the organizers which cannot be interfered with by anyone. The organiser is free to choose any agency for this purpose. The Supreme Court confirming the order of Calcutta High Court, held that the fundamental right to freedom of speech and expression includes the right to communicate effectively, and to large population not only in this country but also abroad. There are no geographical barriers on communication. A citizen has a fundamental right to use the best means of imparting and receiving communication and as such have an access to telecasting for this purpose. The electronic media i.e. the Radio and TV being the most effective communication systems, and airwaves being the property of the general public, they should be utilised for public purpose. Justice Jeevan Reddy suggested the amendments to the Telegraph Act, 1885 keeping in view of modern technological developments in the field of information and communication.

In light of the Supreme Court judgement, it is evident that the Consultation Paper proceeds on the erroneous premise that the activities conducted by broadcasters and the permissions granted to them under Uplinking/Downlinking guidelines are due to the fact that 'television' falls within the definition of Telegraph of the Indian Telegraph Act, 1885 ("**Telegraph Act**") and accordingly broadcasters have been misinterpreted to mean 'licensees' under Section 4 of the Telegraph Act. Basis the

¹ *Indian Telegraph Act, 1885, Section 4 reads : Exclusive privilege in respect of telegraphs, and power to grant licenses : (1) Within India, the Central Government shall have exclusive privilege of establishing, maintaining and working telegraphs: Provided that the Central Government may grant a license, on such conditions and in consideration of such payments as it thinks fit, to any person to establish, maintain or work a telegraph within any part of India: Provided further that the Central Government may, by rules made under this Act and published in the Official Gazette, permit, subject to such restrictions and conditions as it thinks fit, the establishment, maintenance and working : (a) of wireless telegraphs on ships within Indian territorial waters and on aircraft within or above 13[India], or Indian territorial waters, and (b) of telegraphs other than wireless telegraphs within any part of 14 India. Explanation: The payments made for the grant of a licence under this sub-section shall include such sum attributable to the Universal Service Obligation as may be determined by the Central Government after considering the recommendations made in this behalf by the Telegraph Regulatory Authority of India established under sub-section (1) of section 3 of the Telegraph Regulatory Authority of India Act, 1997 (24 of 1997). (2) The Central Government may, by notification in the Official Gazette, delegate to the telegraph authority all or any of its powers under the first proviso to sub-section (1). The exercise by the telegraph authority of any power so delegated shall be subject to such restrictions and conditions as the Central Government may, by the notification, think fit to impose.*

² *Secretary, Ministry of Information and Broadcasting, Government of India v. Cricket Association of Bengal (1995) 2 SCC 161.*

erroneous premise, the TRAI has attempted to equate FM Radio/Telecom/DTH operators with broadcasters and the license fee based on revenue share mechanism as applicable for FM Radio/Telecom/DTH have been mistakenly proposed for broadcasters as well. If we look at the current process followed by the MIB for issuance of license, the role of broadcasters' end at the MIB approval stage and further approvals and/or endorsements required for operationalization of channels are issued by the Wireless Planning Commission (WPC) and Network Operations Control Centre (NOCC) in the name of the teleport operator (MIB issues separate licenses to the teleport operators) and the same is logical since when it comes to use of 'space', broadcasters have no role per se. Hence, it is apparent that broadcasters are not licensees under the Act and any attempt to draw analogy in this regard would be incorrect.

→ **Airwaves**

The radio spectrum (airwaves or radio frequencies) are a public property. Their use has to be controlled and regulated by a public authority in the interests of the public and to prevent the invasion of their rights. Since, the electronic media involves the use of the airwaves, this factor creates an in-built restriction on its use as in the case of any other public property³.

FM Radio broadcasting is terrestrial form of broadcasting. Thus, it uses airwaves which is a public property and the Government of India is in complete control over such terrestrial spectrum. The frequency in the radio spectrum can easily be managed by allocating distinct and unique frequencies to the highest bidder and the TRAI is accordingly able to auction FM Radio channels. FM Radio, as rightly pointed in the Consultation Paper uses different technology and does not require a satellite for transmission and reception. Further FM Radio operators pay a percentage of their revenue to the Government for use of public air-waves. Satellite television broadcasters on the other hand enter into separate contractual agreements for leasing of transponder capacity and broadcasters have to bear the cost for the same. Further, it is also to be noted that the Government of India need not be in complete control in case of spectrum used for uplinking of satellite television channels since the spectrum used for uplinking of signals to a satellite may have footprint over India or foreign country as well. Conversely, a satellite having footprint over India can either be an Indian or a foreign satellite. Further, in the case of FM Radio/Telecom, the auction is for bandwidth which is a scarce natural resource, unlike for TV channels where it is amply available since it is man-made and not in the control of Indian government, as channels can also buy bandwidth from private and foreign satellite operators.

→ **Frequency overlap**

In trying to put the TV broadcast on the same pedestal of the radio broadcast, the Consultation Paper merely ends up juxtaposing TV broadcast and radio broadcast, which the TRAI itself recognizes: (a) the frequency in the spectrum used by a broadcaster is closely coupled with the frequency of a satellite transponder; and (b) the satellite transponder frequency of one satellite transponder covering footprint over a particular region can be identical to other distinct satellites having footprint

³ <http://mib.gov.in/document/supreme-court-judgement-airwaves>

over the same very region. Unlike radio broadcast, the frequency used by the broadcasters in the radio spectrum is not exclusively controlled by the Government. It is rather synchronised with the frequency of the satellite transponders the orbital placement of which is controlled by International Telecommunication Union (ITU) and which are owned by public and private players including international organizations.

→ **Coordinated functioning and International Telecommunication Union (ITU)**

As rightly pointed by TRAI in the Consultation Paper, the use of satellite orbital locations and frequency assignment are tightly controlled by the ITU, which is a specialized UN agency. ITU allocates orbital slot to a satellite which can have its footprint over larger geographical area including India. This aspect is not and cannot be controlled by any Government of a nation. Further, as stated above, the satellite transponder by design may support certain frequency bands, which means that the uplink to and downlink from such satellite of television signal must be undertaken in the matching frequency of that satellite transponder. The broadcasters use satellites, which provide wider footprint beyond one country, for not only broadcasting the television channels to a certain country but also to the countries served by the footprint of such satellite. If Governments of these countries (covered by such satellite footprint) were to auction the frequency bands in the radio spectrum and allocate them to certain broadcasters to be exclusively used by them, it would completely overturn the business of launching satellites and broadcasting TV channels.

Therefore, the cost associated with launching geostationary satellites requires customers to enter into long term commercial arrangements to secure bandwidth on these satellites. These can be for end-of-life of the satellite which may run into 12 years+. The frequency assigned to such commercial arrangement is fixed. For example, a particular broadcaster may use 3900MHz as a centre frequency to downlink multiple channels into India. This frequency could have been possibly assigned due to the transponder that was available at the time of the commercial arrangement, with say Intelsat on Intelsat-20 [IS-20]. These frequencies are assigned to Intelsat by the ITU and they have exclusive use of those in that region. If a public auction is allowed for downlink frequencies by the Government of India, and say an eligible and qualified participant bids more for the frequency 3900MHz, in such scenarios, the winning bidder would need to enter an agreement with Intelsat to use that transponder. Conversely, the incumbent broadcaster would be compelled to enter into a “bidding war” to retain his slot mainly because the IRDs of all his subscriber platform operators is attuned to the slot he already holds. This would result in existing broadcasters shifting their frequencies which is a disruptive proposition. The concerned broadcaster would have thousands of Integrated Receiver Decoders (IRDs) installed across the country, and these are tuned to the broadcaster’s existing frequencies. Widespread migration of frequencies between satellite broadcasters would lead to chaos in the market and in all likelihood lead to extended periods of outage.

2. The proposal for auctioning of satellite TV channels as a complete package i.e. by way of uplinking from Indian soil to Indian satellite and downlinking in India would be backsliding proposal resulting in economic losses due to the reasons provided herein below:

→ Scarcity of satellite transponders

Presently, ISRO does not have the capacity to launch more than 8-10 satellites per annum. In fact, it is intending to enter into arrangements with private enterprises to be able to increase the number of satellites in light of increased demand for the same.

Per recent newspaper reportings, Indian Space Research Organization (ISRO) chairman AS Kiran Kumar has released a statement that “*ISRO which presently does about eight to ten launches a year is aiming at doing 18 per annum, which cannot be achieved without private participation. ISRO presently has 40 operational satellites in different orbits, but Kumar said that the requirement of the country is "much much higher"*”.⁴

Hence, it is evident that ISRO lacks the capacity to meet the current demand of the country. Mandating uplink/downlink from India in the absence of sufficient resources would only lead to further scarcity of satellite transponders. Even if ISRO enters into joint-venture arrangements with private parties to expedite the launch of satellites, lack of geo stationary satellites to meet the growing demand, would result in creating chaos at ground level. ISRO, in the recent past has infact faced chronic capacity constraints and was looking at leasing satellites / space on other foreign satellites to meet demand for Indian broadcasters and DTH operators.⁵ There are supposedly more than 600 geostationary satellites around the world. ISRO has currently 12 GSAT satellites in service. These are used for various essential services as mentioned in the preceding paragraph. ISRO satellites have more than 280 transponders operating in C band of which, close to 100 transponders are leased to provide services to broadcasters. Close to 1/3rd of the 280+ transponders in use are non-Indian.⁶ It is to be noteworthy that presently there are over 877 satellite television channels⁷ (excluding terrestrial channels which are around 23 in number⁸). Broadcasters use C-band transponders for uplinking satellite television channels from India. Further, frequency used for uplinking of SD channels range between 2 MHz – 3 MHz, for HD channels between 4 MHz- 6 MHz and sports channels demand higher frequency usage, anywhere between 7 MHz - 9 MHz. All of this coupled with the niche category of 4k channels assuming fair market share in the recent future, would definitely result in bandwidth capacity crunch and would eventually resulting into non-telecast. Besides, with all broadcasters using the same frequency band in the space/radio spectrum to uplink and downlink, auctioning the space/radio spectrum for TV is not feasible from a technical standpoint. Also, broadcasters would have to rationalize the number of channels they run as the cost of operating all the channels will overshoot beyond viability limits. This would also act as entry barrier for fresh business ventures and restrict the growth of the broadcasting sector. Smaller operators would have no option but to exit business. It would thereby have an adverse impact on the overall economy along with employment opportunities in the country.⁹ In a globalized economy, dissemination

⁴<https://timesofindia.indiatimes.com/india/make-in-india-isro-private-firms-joint-venture-to-launch-rocket-by-2020/articleshow/61341690.cms>

⁵<http://www.thehindu.com/news/national/karnataka/Chronic-capacity-shortage-sends-ISRO-searching-for-lease-of-overseas-satellite/article16946490.ece>

⁶ Source: Wikipedia and ISRO official website

⁷<http://mib.gov.in/sites/default/files/Master%20List%20of%20Permitted%20Private%20%20satellite%20TV%20Channels%20as%20on%20%2031.12.2017.pdf>

⁸ <http://www.freedish.in/p/dd-direct-plus-tv-channels-list-updated.html>

⁹ <http://www.livemint.com/Opinion/S7m838xieAkUL3EnHtvnFL/The-downside-of-proposing-TV-channel-auctions.html>

of information across the borders and plurality of views, play an important role in the socio-economic development of the country.

Under its current policy, the Government allows Indian broadcasters to uplink from outside India using foreign satellites. This is a practical necessity considering the demand for geo-stationary satellites which cannot be met by ISRO. In fact ISRO's first priority is to launch satellites for services critical to the nation like defence, weather forecasting, education, etc. Launching commercial satellites for television would always take a backseat.

In light of the above, the Government should not compel broadcasters to uplink only from India. This is neither feasible nor practical.

→ **Market Forces and Competition**

There are several criteria that a broadcaster of satellite television channel evaluates when looking for new transponder space such as:

- Contiguous Available Bandwidth - The right amount of bandwidth for the requirement, for example either a whole or half transponder;
- Footprint – Does the footprint cover the geographic area that a broadcaster requires to distribute these channels;
- Receive Antenna Look Angle – Is the satellite orbital location suitable for the main market where the feeds are to be received. The lower the look angle of the lower the receive antenna must be pointed to the horizon leading to potential obstruction of the signal and more terrestrial interference;
- On Ground Power – Does the transponder provide the necessary power to the installed base of antenna to achieve 99.95%+ availability of the signal;
- Reliability – Typically with over 20 years of experience is preferred since as communications satellites cannot be repaired in orbit.
- Neighbourhood – DPOs do not like to have unlimited different receive antenna at their headend, so it usually important to make sure other 'must carry' channels are on the same satellite;
- Price –Price must be competitive.

If the INSAT/G SAT network are able to assure meeting the criteria stated above, then broadcasters would look at their capacity as an option for further expansion/replacements. This should be left to market forces and they should be allowed to make this decision. This would have a positive impact on overall competition.

If both, the imposition of additional fees for satellite spectrum usage and the mandating of the use of Indian satellites is implemented, then there may be unforeseen outcomes because of the economic pressures it would exert:

- Broadcasters move from satellite delivery to fibre delivery to get their channels to the major MSOs and DTH. This could cut out many rural areas and smaller operators in secondary markets.
- Certain channels that operate on a lower profit margin may be forced to be switched off. This would have a greater impact on educational and regional language channels which tend to be less profitable than the general entertainment channels.

Accordingly, auctioning of satellite television channels as a complete package is not in the public interest and must not be implemented.

- ❖ *Is it technically feasible to auction individual legs of satellite TV broadcasting i.e. uplinking space spectrum, satellite transponder capacity, and downlinking space spectrum? Kindly explain in detail.*
[Query 4.6]

Response:

1. Auction of individual legs of satellite television broadcasting i.e. uplinking space spectrum, satellite transponder capacity and downlinking space spectrum may not be technically feasible since uplink and downlink frequencies are tightly linked and require coordinated use for successful broadcasting of satellite television channels. Broadcasters after receiving permission for uplinking of satellite television channels from the MIB also apply to the Wireless Planning Commission (WPC) and the Network Operations Control Centre (NOCC) for operationalization of television channels. Hence, a satellite television channel uses not only the uplink spectrum but also satellite transponder and downlink spectrum for re-transmitting the signals of television channels. Broadcasters hire transponder on a satellite for specified contractual period from the owner of the satellites. Leasing of transponder capacity on a satellite simultaneously may also fix the uplinking and downlinking frequencies. Considering that the uplink and downlink frequencies are linked and these frequencies are assigned in a very controlled manner, the same ensures complete synchronisation. Hence, auctioning of individual legs of satellite television broadcasting will only result in disruption in a process that has been streamlined and working smoothly for 25 years.
2. As explained in our response to Query 4.5 above, many broadcasters may uplink a channel from outside of India but this could be the India feed that covers other countries in South Asia. Broadcasters also uplink from outside of India for downlinking into India. Trying to regulate uplink/downlink frequencies, which again are tightly controlled by the ITU, does not seem feasible.
3. Satellite orbits are granted by the ITU, and satellites are launched not just by nations but by private foreign operators as well. As mentioned earlier, the auction in case of Radio/Telecom is for bandwidth which is a scarce natural resource, unlike for TV channels where it is amply available since it is man-made and not in the control of Indian government, considering channels can also buy bandwidth from private and foreign satellite operators.

In light of the foregoing, auctioning of individual legs of satellite TV broadcasting is not a viable option.

- ❖ *Is it feasible to auction satellite TV channels without restricting the use of foreign satellites, and uplinking of signals of TV channels from foreign soil? Kindly suggest detailed methodology.*
[4.7 of Chapter 4]

Response:

We are of the view that any form of auctioning of satellite television channels will have an adverse effect on the overall broadcasting sector. It would not only create an entry barrier

but also negatively impact the quality of content, the diverse variety and number of channels currently being offered. Further, the negative impact on overall competition could result in market concentration and lead to increase in prices currently being offered at economical rates, market behaviour, employment, consumers etc. In the event the TRAI decides to proceed with the implementation of auctioning of TV channels, the costs are likely to increase manifold because of a lack of supply of ISRO launched geo-stationary satellites. This would squeeze out smaller operators resulting in artificial entry barriers which could stifle media freedom. In fact, the auction of TV licences will also have a cascading effect on larger corporations which may also have to rationalize the number of channels that they run as the cost of operating all the channels will spiral, making the business unviable.

❖ *Is it advisable to restrict use of foreign satellites for satellite TV broadcasting or uplinking of satellite TV channels, to be downlinked in India, from foreign soil?*
[4.8 of Chapter 4]

Response:

This has already been discussed in detail in our responses above. Additional pointers (alongwith re-iterations as deemed necessary) are as follows:

1. Indian broadcasters must have the flexibility to procure transponder space through a transparent price discovery process. It should not matter whether the satellite operator is of Indian or foreign origin. What should matter is a level playing field and an opportunity for Indian broadcasters to get the best deal they can. Currently with Antrix/ISRO, satellite deals are for short durations not exceeding three years and availability of geo-stationary satellites is a major issue. Any restriction on use of foreign satellite would result in scarcity of satellite transponder and restrict the growth of the broadcasting sector. Indian satellites do not have the capacity to deliver all the C-Band traffic that would be required to support all broadcasters. Also, geo-stationary orbital locations are limited and assigned. It could take several years to build and launch a satellite, so it would not be possible to add capacity even though there might be an orbital location available.
2. Presently, several major broadcasters in India uplink signals to foreign satellites. Imposition of restrictions in terms of mandating uplinking from India would have massive implications as regards cost for migration, would be a time consuming process, lead to drop in on-ground performance, loss in the ability of distributors to receive signals and an overall chaos. The implications could be so grave that it may result in broadcasters cutting-down on their channels (especially regional channels) subsequently exiting the business and the overall broadcasting industry coming to a standstill.
3. Adverse impact on socio-economic development of the country due to prohibition on dissemination of information across borders and plurality of views.
4. Regulatory framework should aim at preventing exploitation by any entity and rest should be left to the market forces. Further, the laws should aim towards 'Ease of Doing Business in the Broadcasting sector'.

❖ *Can there be better way to grant license for TV satellite channel then what is presently followed? Give your comments with justification?*

[4.9 of Chapter 4]

Response:

In light of the discussions in the foregoing responses under 4.5 to 4.8 above, it is apparent that the present framework has been successfully implemented. Any deviations from present norms /policies would not only adversely affect the growth of the sector, but would also result in ambiguity. A stable policy regime is a sine qua non for investor confidence and essential for the development of the sector. We propose that the existing norms for grant of licenses for satellite television channels should remain unchanged subject to the suggestions made by us. However, we strongly believe that the time-frame for grant of licenses should be re-visited and reduced to two (2) months at the maximum.

Query:

Entry Fee and License fee

❖ *If it is decided to continue granting of licenses for satellite TV channels on administrative basis, as is the case presently, what should be the entry fee for grant of license for uplinking of TV channels from India, downlinking of TV channels uplinked from India, and downlinking of foreign TV channels? Please suggest the fee amount for each case separately with appropriate justification.*

[4.10 of Chapter 4]

Response:

Under the extant guidelines, for downlinking of satellite channels, uplinked from foreign countries, an amount of Rs. 10 lakhs are required to be paid at the time of grant of permission. In addition to this, license fee of Rs. 15 lakhs are also required to be paid per channel per annum for downlinking of television channels uplinked from abroad. In case of channels uplinked from India, while the entry fee has been presently kept nil, license fee of Rs. 2 lakhs per annum per channel is required to be paid. For downlinking of such channels uplinked from India, an amount of Rs. 5 lakhs per annum per channel is also required to be paid.

In addition to the aforementioned fees, there is also a requirement for furnishing Performance Bank Guarantee (“PBG”) of Rs. 1 crore in case of Non-News and Current Affairs Channels and Rs. 2 crore PBG for News and Current Affairs Channels for operationalization of new channels.

In light of the above, it is evident that the overall cost burden on broadcasters is substantial. In the event, a broadcaster does not operationalize its channel, it is required to continue to pay downlinking and uplinking fee which in itself is very high and acts as entry barrier. It would not be an ideal situation wherein a broadcaster is unable to operationalize its channels due to constant expense of high downlinking/uplinking fees.

Further, as far as MIB’s assertion of ‘nil’ entry fee for downlinking of domestic channels i.e. the channels uplinked from India and downlinked in India, could be encouraging non-serious players to obtain licenses are concerned, we wish to highlight that the reason non-operationalization of channels for which licenses have been granted are not due to ‘nil’ entry fee but due to the delay in issuance of licenses by the MIB itself. To elucidate, in light of dynamic nature of the broadcasting sector, fresh channels are required to be

launched at extremely short notice. However, the approval process becomes a road block since it takes a minimum of 1 (one) to 2 (two) years to procure permission from the MIB resulting in loss of business opportunity and more importantly time, which is of essence. Accordingly, broadcasters at times are constrained to apply for and secure permissions for a channel in advance so that they launch them, without losing crucial business opportunity. Hence, the moot issue here is the delay in the approval process which needs to be addressed.

In light of the foregoing, it is evident that imposition of entry fee for channels uplinked from India is not the resolution for the issue at hand. Entry fee for channels uplinked from India should be kept nil to continue encouraging broadcasters to uplink from India thereby having a positive impact on the business of the teleport operators and subsequently the overall economy.

- ❖ ***What should be the license fees structure, i.e. fixed, variable, or semi-variable, for uplinking and downlinking of satellite TV channels? Please elaborate if any other license fee structure is proposed, with appropriate justification.***
[4.11 of Chapter 4]

Response:

The present fixed license fee structure has worked well and should be retained. Fixed license fee structure guarantees assured amount of revenue to the Government irrespective of growths or losses suffered by the sector. Variable/semi-variable structuring would make revenue for the Government uncertain. Further, from broadcasters' perspective, any change in the structure essentially culminating into increased license fee would act as an entry barrier to fresh entrants in the sector and thereby as an overall deterrent.

We note from the Consultation Paper that the MIB in its Letter has sought recommendations of the TRAI about the rates of annual permission fee and the feasibility of adopting revenue sharing model as applicable in the DTH sector for uplinking/downlinking and teleports. Further, it would be incorrect to draw any sort of analogy of Broadcaster with DTH operators and FM Radio also since DTH Operators and FM Radio stations for reasons already discussed in the foregoing. To reiterate, FM Radio and DTH operators avail spectrum from Government of India and pay the license fees as % (percentage) of their revenue. FM radio broadcasting is the terrestrial form of broadcasting where for each Radio channel bandwidth spectrum is allocated by WPC. In addition, DTH and FM Radio content are out-sourced hence, the cost of procuring content is nominal whereas Broadcasters incur huge costs for content production/acquisition and packaging of content especially in the case of sports acquisitions wherein acquisition costs run into millions of dollars. At present there are predominantly 6 DTH Operators excluding Doordarshan and 36 FM Radio stations¹⁰ in India. On the other hand, there are over 880 permitted satellite TV Channels operating in India. Hence, there is tough competition amongst the broadcasters and most of the broadcaster are struggling to be break even. In such competitive scenario we believe, it is not advisable to apply the same formula of DTH Operator /FM Radio of revenue sharing to broadcasters. Besides, it is not logical to do for reasons discussed in this Consultation Paper.

- ❖ ***If the variable license fee structure is proposed, then what should be rate of license fee for TV channels uplinked from India and TV channels uplinked from abroad, and what should be the definition of AGR?***

¹⁰ <http://www.asiawaves.net/india/>

[4.12 of Chapter 4]

Response:

We are of the view that the present fixed fee structure should not be deviated from due to the explanations provided in our responses to Query 4.10 and 4.11.

- ❖ *If the semi-variable license fee structure is proposed, then what should be the minimum amount of license fee per annum for domestic channels (uplinked and downlinked in India), uplink only channels, and downlinking of foreign channels (uplinked from abroad)?*

[4.13 of Chapter 4]

Response:

We are of the view that the present fixed fee structure should not be deviated from due to the explanations provided in our responses to Query 4.10 and 4.11.

- ❖ *If the fixed license fee structure is proposed, then what should be the license fee per annum for domestic channels, uplink only channels, and downlinking of foreign channels?*

[4.14 of Chapter 4]

Response:

It is suggested that the annual renewal fee be brought down to reasonable levels of Rs. 5 lakhs per annum (presently annual renewal fee of Rs. 15 lakhs are required to be paid per channel per annum for downlinking of television channels uplinked from abroad) at par with the fee for downlinking of television channels uplinked from India and the requirement of furnishing PBG be done away with since the credibility of a broadcaster is already established by insisting on a minimum net worth. The MIB should consider accepting a one-time renewal fee at the time of grant of uplinking/downlinking licenses to the broadcasters for the entire period of 10 years. This would also address concerns of the MIB as regards entry-barrier.

In the alternative, if our recommendation as regards the PBG (stated above) is not acceptable to the TRAI, then atleast the PBG should be reduced to Rs. 25 lakhs alongwith the annual renewal fee reduced to Rs. 5 lakhs per annum.

All other fee structuring/amounts to remain unchanged.

- ❖ *What should be the periodicity for payment of the license fee to the Government? Please support your answer with justification.*

[4.15 of Chapter 4]

Response:

Presently the license fee is required to be paid on an annual basis. The same should be continued.

- ❖ *What should be the periodicity for review of the entry fee and license fee rates?*

[4.16 of Chapter 4]

Response:

Review of entry fee and licensee fee may be undertaken every 10 (ten) years after following a consultation process.

Encryption of TV channels

- ❖ *Should all TV channels, i.e. pay as well as FTA satellite TV channels, be broadcasted through satellite in encrypted mode? Please elaborate your responses with justification. [4.17 of Chapter 4]*

Response:

Complete digitization of digital addressable system has been implemented by the MIB in a phased manner as follows:

Phase 1	Metro cities of Delhi, Mumbai, Kolkata & Chennai	31 October 2012
Phase 2	38 cities (with population of more than one million)	31 March 2013
Phase 3	All other urban areas (Municipal Corporations/Municipalities)	31 December 2016
Phase 4	Rest of India	31 March 2017

Digitization and encryption go hand in hand to foster addressability alongwith non-piracy. Presently while encryption is mandated per the Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations, 2012 read with the Cable TV Networks (Regulation) Act, 1995 for pay channels, in the deficiency of the same being mandated for FTA channels, rampant piracy of these channels have resulted in adverse implications on the revenues of the broadcasting sector.

Encryption is essential for broadcasters to be able to arrive at accurate subscriber bases in the CAS and SMS of the distributors thereby enabling encashing the true value of underlying content and optimize the ad spot rates. Un-encryption results in under-declaration of subscribers thereby resulting in losses to broadcasters. Further, encryption is absolutely necessary to enable broadcasters to protect their valuable content/channels and prevent piracy. In our experience, we have noticed distributors indulge in piracy by illegally re-transmitting the signals of the broadcasters' FTA channels from Doordarshan in the absence of encryption. Hence, un-encryption has only encouraged piracy which goes contrary to the MIB vision of driving out piracy. Hence, we are of the strong view that encryption standards should be specified by the TRAI for FTA channels of the broadcasters. As far as the additional cost concerns in terms of IRDs and VCs that have to be separately provided and the contractual costs are concerned, in light of the limited number of FTA channels of every broadcaster, such concerns appear farfetched. Hence, encryption for all channels should be mandated by the TRAI to erode piracy and make reporting more transparent.

Separately, we wish to bring to the attention of the TRAI, the greatest challenge being faced by broadcasters as regards MSOs/HITs operators is when the LCOs affiliated to these HITS operators use their local video channel frequencies to re-transmit demodulated

unencrypted signals of pay channels of the broadcasters to their subscribers to ensure that they remain untraceable and thereby do not get netted in the monthly subscriber numbers. This in turn leads the MSO/HITS operator to create a perception that demand for a particular channel is low and ask for deactivation of such channel in many cases/coerce the broadcasters into offering content at inferior prices. Such scenarios reduce taxable revenues thereby impacting the quality of their content and thus adversely impacting the consumers. The TRAI must look into this and issue necessary safeguards to ensure that none of the broadcasters' channels are permitted to be carried by the MSOs/HITS operators on their local LCNs. Local channels of the MSOs/HITS operators must only re-transmit content produced by them/acquired by them specifically for the purpose of re-transmission on their local channels only.

Operationalisation of TV channel

- ❖ ***Is there a need to define the term “operationalisation of TV channel” in the uplinking guidelines, and downlinking guidelines? If yes, please suggest a suitable definition of “operationalisation of TV channel” for the purpose of the uplinking guidelines, and the downlinking guidelines separately.***
[4.18 of Chapter 4]

Response:

Operationalisation of a channel in practical terms is the commencement of commercial operations when the new channel's viewership gets collated and reported by BARC. As long as this happens within a reasonable period after the grant of the uplinking/downlinking licence, Government ought not to have any concern. Currently, applicants are expected to operationalise a new channel within a 'roll-out' period of 1 (one) year from the grant of a licence. Considering that broadcasters need to enter into several arrangements such as with satellite operators, content providers, distribution platform operators (DPOs), etc. which could be given effect only after MIB approval, the 'roll-out' period should be extended to 2 (two) years, failing which the licence in any case stands cancelled. The licence from the MIB is only one of the many permissions and administrative actions that need to be taken for the launch of a channel. And pay channels are likely to take more time than FTAs as they need to tie up arrangements with a number of MSOs and DTH operators. Further, the genre of the channel in which the broadcaster would have wished to launch might have undergone change from the time the broadcaster applied for the MIB permission till the time the permission was granted. This at times could require a change in business plan and strategy which is a time consuming process. Further, carriage and placement deals take time to close considering the competitive nature of the industry.

Nonetheless, to propitiate any concerns regarding non-operationalization of channels, our proposal is for insertion of constraints by way of imposition of investment obligations on the broadcasters within the proposed 'roll-out' period of 2 (two) years from the date of grant of permission by the MIB which may alternatively be considered by the TRAI. To elucidate, TRAI may consider imposing an obligation on broadcasters to make investments on its channel by way of entering into arrangements with satellite operators and/or content providers and/or DPOs for a minimum threshold of say Rs. 50 Lakhs within the roll-out period of 2 (two) years. This would act as deterrent and prevent non-serious players from entering into the business for the sake of trading/leasing permissions. The TRAI may further consider a staggered reporting mechanism wherein broadcasters report to the MIB regarding progress made in terms of investments on a half yearly basis. However, as the TRAI would know and as stated above, content availability is a massive challenge being

faced by the broadcasters amongst others issues, which could at times become a bottleneck for broadcasters hindering investment in content within the time frame of 2 years. In such scenarios, a carve-out should be made and the TRAI may consider granting extension by 1 (one) year from the expiry of the roll out period of 2 (two) years (subject to reporting obligations being met) in such exceptional cases, if satisfactory progress as regards other aspects is demonstrated by the broadcasters within the roll out period of 2 (two) years.

All the above would suffice any loose ends around operationalization of television channels.

- ❖ ***Maximum how many days period may be permitted for interruption in transmission or distribution of a TV channel due to any reason, other than the force-majeure conditions, after which, such interruption may invite penal action? What could be suggested penal actions to ensure continuity of services after obtaining license for satellite TV channel? [4.19 of Chapter 4]***

Response:

In light of our suggestion to your query in 4.18 above, the threshold for interruption during the roll-out period/the extended roll-out period does not arise. However, after a channel starts re-transmitting signals, a minimum time frame of 15-21 days is proposed by us for interruption in transmission or distribution of a TV channel due to any reason, other than the Events of Force Majeure. This restriction on uninterrupted re-transmission however, cannot be made applicable in case of black-out for individual distribution legs. There should be a continuous black-out in its entirety across platforms for the complete time period of 15-21 days in order for the restriction to be reasonable considering the grave consequence in the event of breach resulting in cancellation of the license.

Further, the following definition for Force Majeure Events is proposed by us which should be included by way of amendment in the uplink/downlink guidelines:

“Event of Force Majeure shall mean an act of God, revolution, national mourning, strike, lock-out or other industrial action, failure or delay in transmission, satellite failure, failure of any public utility or undertaking, civil commotion, invasion, fire, explosion, storm, flood, earthquake, sunspot outage, other natural disaster, epidemic, terrorist action or threat thereof, war or threat or preparation for war and any legislation, regulation or ruling of any government, court or other such competent authority or any other cause affecting the re-transmission of uninterrupted signals arising from or attributable to acts, events, non-happenings, omissions or accidents beyond the reasonable control of the party affected.”

In the event a broadcaster’s channel does not resonate with viewers, it is a huge loss for the broadcaster. The concerned broadcaster would have already spent sufficient time and resources to for operationalising the channel including deals with satellite operators, platform operators, marketing and promotion, etc. All of this would mean an overall huge revenue loss for the broadcaster which is greater than that any penalty that could possibly be imposed.

Transfer of License

- ❖ ***Whether the existing provisions for transfer of license/permission for a TV channel under uplinking guidelines, and downlinking guidelines are adequate? If no, please suggest additional terms and conditions under which transfer of license/permission for***

a TV channel under uplinking guidelines, and downlinking guidelines may also be permitted? Please elaborate your responses with justification.

[4.20 of Chapter 4]

Response:

Broadcasters own intangible assets essentially in the form of content/content rights/IPRs and licenses of channels being biggest of such intangible assets. Once a broadcaster is in receipt of licenses from the MIB, being owners of such licenses, it should have the liberty to transfer such licenses without being subjected to overtly onerous conditions. In an era of consolidation and conversion, freedom of trade and commerce should be encouraged within “light touch” regulatory contours. Further, transfer of business or undertaking through a Court/NCLT process, slump sale agreements, business transfer agreements, share purchase agreements, etc. are recognized methods of transfer in accordance with applicable laws. However, the present uplink/downlink guidelines do not recognize the same. In our view, any form of transfer of business resulting in transfer of licenses should be permitted without getting into categorization of the type of transfer. Where the Government should be wary is transfer of un-operationalised licences by a newly set up company because that could well encourage trafficking in licenses.

In the present regime, transfer of licenses by broadcasters are subject to the approval of the MIB which is a time-consuming process. Definitive timelines should be set-out for grant of such approval. Further, in situations wherein transfer of licenses are the outcome of a merger/amalgamation, requiring approval of the NCLT, the order of the NCLT should be the final step in the approval chain. Considering the MIB is intimated when the merger/amalgamation process is initiated by broadcasters/operators, the MIB should get the approval process initiated at that very point of time and order passed by the NCLT should be passed after taking into consideration all sectoral approvals including but not limited to the MIB. Presently, substantial time lapses between receipt of the court order approving the transfer and the MIB approval for transfer. The same must be streamlined.

In addition to the above, another bottle-neck in the transfer of approval process is the security clearance for directors of the acquirer from the MHA. This adds a huge level of uncertainty to the business transfer arrangement. Such a requirement should be made applicable post-facto to smoothen the transfer process. If post facto suggestion is not acceptable to the TRAI, at least, broadcasters should be given the liberty to propose the 3 directors forming the Board to be security cleared first and clearance requirement should restrict to these 3 directors only. The post-facto requirement should apply to the remaining directors who may be cleared later.

❖ ***Should there be a lock in period for transfer of license/permission for uplinking, or downlinking of a TV channel? If yes, please suggest a suitable time period for lock in period. Please elaborate your responses with justification.***

[4.21 of Chapter 4]

Response:

As discussed above, licenses being intangible assets of broadcasters should not be subjected to restrictions on transfer of ownership post grant of the licence. Broadcasters being the owners of licenses should have the right in free dealing of its assets. TRAI may at most consider imposition of lock-in for fresh entrants. This would create a further entry-barrier to propitiate the qualms of the authorities as regards illegal trading of licenses is

concerned. However, for existing broadcasters who have successfully proved their business intentions and catered to the large audiences, imposition of any restrictions in terms of lock-in would not only be inappropriate and unfair but would not help address any tangible concerns that the TRAI may have in this regard.

- ❖ *Should the lock in period be applicable for first transfer after the grant of license/ permission or should it be applicable for subsequent transfers of license/ permission also?*
[4.22 of Chapter 4]

Response:

Kindly refer to our response to Query 4.21 above.

- ❖ *What additional checks should be introduced in the uplinking, and downlinking permission/ license conditions to ensure that licensees are not able to sub-lease or trade the license? Please suggest the list of activities which are required to be performed by Licensee Company of a satellite TV channel and can't be outsourced to any other entity to prevent hawking, trading or subleasing of licenses.*
[4.23 of Chapter 4]

Response:

Lock-in if accepted by the TRAI would be a condition applicable on the licensee company till the time of operationalization of channels.

Further, the viewpoints shared in the Consultation Paper in terms of imposition of another set of PBG under the downlinking guidelines to ensure operationalization of a channel is absolutely unnecessary in light of already inflated cost obligations of the broadcasters.

We would like to bring to the attention of the TRAI, the primary reason for non-operationalization of channels (within the roll-out period of 1 year from the date of grant of permission by the MIB) being the delay in the approval process by the MIB. As you would be sufficiently aware, in light of dynamic nature of the broadcasting sector, fresh channels are required to be launched at extremely short notice. However, the approval process becomes a road block since it takes a minimum of 1 (one) to 2 (two) years to procure permission from the MIB resulting in loss of business opportunity and more importantly crucial time. Accordingly, broadcasters at times are constrained to apply for and secure permissions for a channel well in advance so that it can steadily launch them, without losing crucial business opportunity. Hence, the moot issue here is the delay in approval process which needs to be addressed to prevent broadcasters from applying for permissions for channels substantially in advance. Imposition of further PBGs would only act as an entry-barrier in an already restrictive industry. Further, the primary reason for the delay in approval process essentially ascends from the delay in obtaining the security clearance from Ministry of Home Affairs (MHA). After sufficient persuasion by Broadcasters and the apex body of the Broadcasters i.e. Indian Broadcasting Foundation (IBF), the MHA vide its letter dated 18.06.2015 had informed the MIB that it had liberalized the process of Security Clearance by extending the validity period of security clearance for 10 (ten) years in the broadcasting sector and had further decided to do away with the requirement of fresh security clearance for additional channels during the extended period of security clearance. However, subsequently, the MHA again rolled back the policy and asked for fresh security clearance for channels during the validity period of security

clearance of 10 years. This had severe cost implications on the broadcasters. Once a permission is granted, it should remain valid for the specified time period of 10 years.

In light of the foregoing, imposition of any further cost on broadcasters would inevitably have an adverse impact over quality of content, pricing, supply, demand, employment and the economy overall. We are strongly against imposition of any additional costs on the broadcasters. Restriction in the form of lock-in and as per other suggestion may however be implemented.

- ❖ ***Whether specific definition of a teleport is required to be incorporated in the policy guidelines? If yes, then what should be the appropriate definition? Please elaborate responses with justification.***
[4.24 of Chapter 4]

Response:

Yes, teleport should be specifically defined in the policy guidelines itself to evade any sort of ambiguity. In our view, the following definition for Teleport may be considered by the TRAI:

“Any facility capable of uplinking a number of channels to one or more satellites.”

- ❖ ***Is there any need to increase the amount of non-refundable processing fee to be paid by the applicant company alongwith each application for teleport license? If yes, what should be the amount of non-refundable processing fee? Please elaborate with justification.***
[4.25 of Chapter 4]

Response:

No comments.

- ❖ ***Should entry fee be levied for grant of license to set up teleport? If yes, what should be the entry fee amount? Please give appropriate justification for your response.***
[4.26 of Chapter 4]

Response:

No comments.

- ❖ ***What should be the license fee structure for teleport licensees? Should it be fixed, variable or semi-variable? Please elaborate if any other license fee methodology is proposed, with appropriate justification.***
[4.27 of Chapter 4]

Response:

While we have no comments on the specific query of TRAI, however, we do believe attractive investment and tax incentives for foreign investors in teleport hubs should be explored & single window clearance for use of foreign satellites by Indian broadcasters needs to be facilitated in letter and spirit if India is to be developed as a teleport hub.

- ❖ *What should be the rate of such license fee? Please give appropriate justification for your response.*
[4.28 of Chapter 4]

Response:

No comments.

- ❖ *What should be the periodicity for payment of the license fee to the Government? Please support your answer with justification.*
[4.29 of Chapter 4]

Response:

No comments.

- ❖ *What should be the periodicity for revision of the entry fee, and license fees rate for teleport licensees?*
[4.30 of Chapter 4]

Response:

No comments.

- ❖ *Whether there is a need to restrict the number of teleports in India? If yes, then how the optimum number of teleports can be decided? Please elaborate your responses with justification.*
[4.31 of Chapter 4]

Response:

Any restriction on the number of teleports in India would be contrary to the TRAI's vision of whirling India into a teleport hub. Considering C-band frequencies which are mostly used by teleports due to better transmission quality are not scarce, there appears to be no reason for imposition of restrictions on teleports operating in India.

- ❖ *Whether any restriction on the number of teleports will adversely affect the availability or rates of uplinking facilities for TV channels in India?*
[4.32 of Chapter 4]

Response:

The market requirements arising from supply-demand ratio will determine the number of operators. As we have seen in the DTH sector, though there is no cap, presently there are only three or four major operators. Hence, we do not see the need for any cap on the number of teleports.

Location of teleports

- ❖ *What should be the criteria, if any, for selecting location of teleports? Should some specific areas be identified for Teleport Parks? Please elaborate your responses with justification.*

[4.33 of Chapter 4]

Response:

Regulatory approach should be light touched. Total forbearance for teleport operators to conduct their business in the present manner should continue. As rightly pointed in the Consultation Paper, teleport operators should be allowed to exercise discretion for selecting its location. In any case, site clearance is required to be obtained from the WPC hence, there is still control in the hands of the Government to that extent. Development of Teleport Parks would only result in concentration of teleports at a single place thereby enhancing the risk factor for occurrence of natural calamities like earth quakes, etc.

Optimum use of existing teleport infrastructure

- ❖ *Please suggest the ways for the optimal use of existing infrastructure relating to teleports.*

[4.34 of Chapter 4]

Response:

Change in technological standards related to satellite transmission could result in affiliates that are operating at a low margin to potentially lose signal lock and as such reception of the channels, thereby impacting the consumers.

Broadcasters are always looking for ways to use technology to improve their bandwidth efficiency, but the installed base of IRDs also needs to support this. It is not practical for broadcasters to swap thousands of IRDs each time there is an improvement in the transmission technology. This should not be regulated by the Government; market economics should be given the liberty to decide.

Unauthorised Uplink by Teleport operator

- ❖ *What specific technological and regulatory measures should be adopted to detect, and stop uplink of signals of non-permitted TV channels by any teleport licensee? Please elaborate your responses with details of solution suggested.*

[4.35 of Chapter 4]

Response:

No comments.

Any other issue

- ❖ *Any other issue Stakeholders may also provide their comments on any other issue relevant to the present consultation.*

[4.36 of Chapter 4]

Response:

Nil.

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