



Regulations in Broadcasting sector

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Plan of Presentation

- Section-I: Broadcasting Sector in India (Previews), Relevant Acts, Role of TRAI, Regulatory Milestones.
- Section-II: Analysis-I—Jurisdiction / Authority (Laws vs Regulations).
- Section-III: Analysis-II—Why & When to Regulate (Regulatory Objectives, Factors & TRAI's Approach).
- Section-IV: What has been Regulated by TRAI so far in Broadcasting sector (Over-regulated/Under-regulated?), Brief of the Regulations (2004-2017).
- Section-V: A comparative analysis of the International Practices in Broadcasting Sector Regulations (UK, USA & India).
- Section-VI: Regulatory Challenges & the Way Forward.

Broadcasting Sector in India...1

- Terrestrial TV [Non-addressable, both Analog and Digital]:
 - Switch-over to Digital Platform by March,2023.
- Cable TV [Digital Addressable System]
- Direct-to- Home (DTH)[Digital Addressable System]
- Headend-in-the-Sky (HITS) [Digital Addressable System]
- Internet Protocol TV (IPTV) [Digital Addressable System]
- Radio broadcasting [AM (MW and SW), FM and CRS]:
 - TRAI has recommended for Introduction of Digital Radios.

Broadcasting Sector in India....2

Broadcasting and cable TV sector consists of large number of service providers. Many of them are proprietary firms not registered under the Companies Act.

- ~250 Broadcasters owning around 877 channels.
- ~1500 MSOs registered for providing cable TV services, more than 60000 local cable operators providing last mile connectivity to the subscribers.
- 6 Pvt. Pay-TV DTH Operators and 1 free to view DTH service operated by Prasar Bharati.
- 2 HITS operators : NXT Digital, NSTPL(non-operational).
- Few IPTV operators.
- FM Radio stations : 322 operational in 86 cities
- Community Radio Stations: 270

Broadcasting Sector in India.....3

• The Market Revenue: Rs 58,800 Cr

(FICCI KPMG IME Report, 2017).

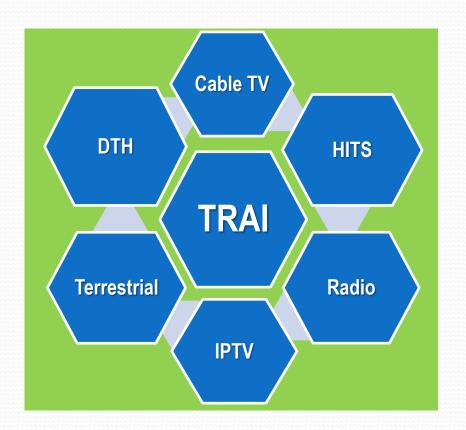
- TV Households: 183 Million.
- Industry Growth, CAGR: 15%

Relevant Acts in Broadcasting Sector

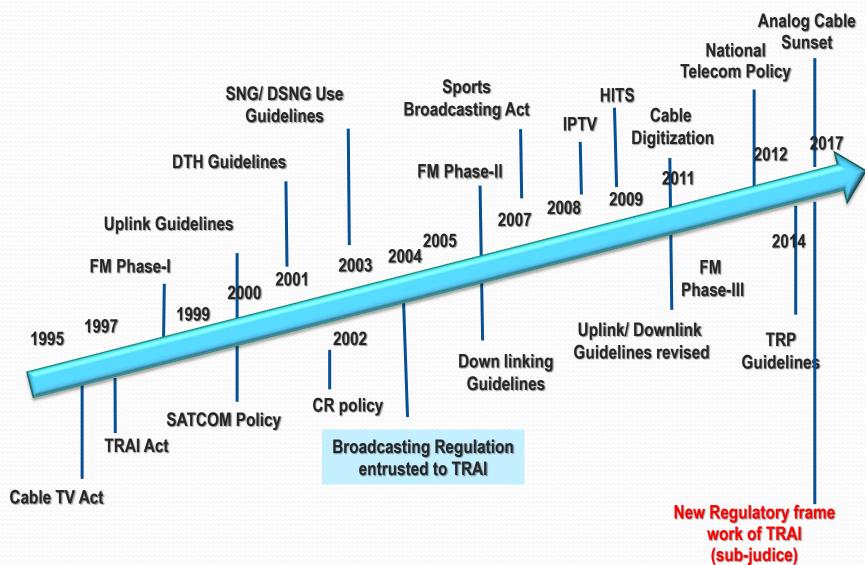
- 1885 -The Indian Telegraph Act
- 1990 Prasar Bharati Act
- 1995 Cable TV Act
- 1997 TRAI Act
- 2004 Broadcasting services came under ambit of TRAI
- 2007 Sports Broadcasting (Mandatory Sharing) Act
- 2011 Cable TV Amendment Act, mandating Digitisation.

Role of TRAI

- Regulations for effective Interconnection amongst stakeholders
- Tariff matters
- Quality of service Norms
- Consumer protection
- Recommendations to the Government on licensing issues and other policy matters.
- Monitoring and ensuring compliance of the licenses terms and conditions



Policy and Regulatory milestones in Broadcasting sector



Analysis –I: *Jurisdiction / Authority*

Laws vs Regulations

- In Parliamentary democracy, the power to write law is with the representatives of people, who are directly elected by citizen of a country.
- Regulators also have the power to write laws(rules/ regulations).
- Since, the regulators are unelected officials, their decision making may contain an inherent democratic deficit which is not the case in law making by legislatures.
- This can be addressed through extensive consultation with stakeholders and by bringing & displaying technical expertise, while laying down rule / regulations by Regulators.
- TRAI Act ensures that TRAI shall bring about transparency while exercising its powers and discharging its functions.

Procedure followed by TRAI for framing Regulations/ Recommendations

- Issue of Consultation Paper.
- Invite stakeholder comments/ counter comments.
- Hold Open House Discussions.
- Discussions with stakeholders, if necessary.
- Analyze and address stakeholder's views.
- Issue Regulations/Recommendations.

...in due conformation to the Statutory Provisions & International Practices (FCC, OFCom, etc).

Analysis –II:

Why & When to Regulate?

Regulation Objectives

- Economic objectives:
 - Encourage investment and innovation;
 - Reduce cost of operations by improving ease of doing business;
 - Promote competition to minimize price and maximize quality of services; and
 - Inspire economic growth and performance using converged services.
- Social objectives :
 - Affordable access to services;
 - Plurality of voices in the media;
 - Consumer protection and privacy.

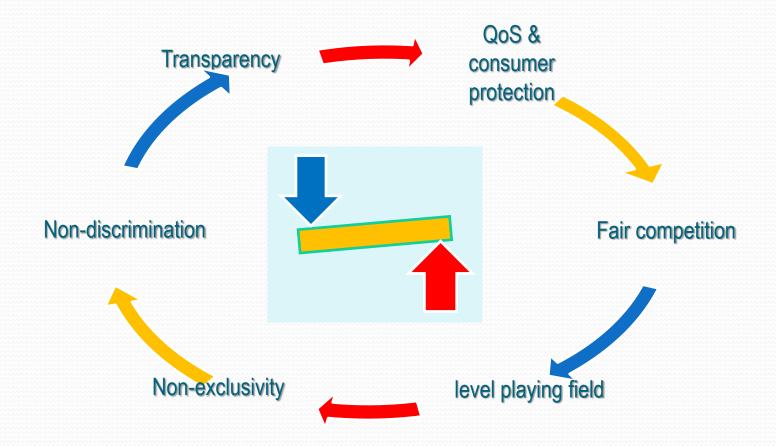
Factors Calling for Regulations

- To prevent Market failure
 - Entry barriers
 - Discrimination
 - Non-level playing fields
- To ensure Consumer protection
- To ensure effective competition
- To ensure a quality of service at an affordable price.
- External Factors:
 - Piracy & Protection of National Interest.
 - Measures for the development of Telecom technology and any other matter relatable to Telecom industry, in general.

TRAI as Broadcasting Sector Regulator

- The regulation of broadcasting sector was entrusted to TRAI in 2004.
- The sector then, was largely unregulated, without operational transparency, experienced erratic price fluctuations and number of litigations amongst the stakeholders.
- The regulatory intervention was required at that time to ensure non-exclusive, non discriminatory access and transparency while protecting both consumer and sector interests.
- TRAI notified comprehensive regulatory frameworks to address issues.

TRAI's Approach to Regulations



Objective :Growth of Industry, Quality of service, Affordability and Choice to consumers

Analysis –III: What Has been Regulated by TRAI so far In Broadcasting Sector?

Regulations in Broadcasting Sector (2004-2017)

S1.	Types of Regulations/ Tariff Orders	Number of Regulations (Amendments excluded)
1	Interconnection Regulations	3
2.	Tariff Order/Regulations	4
3.	QoS Regulation	4
4.	Consumer Grievance Redressal Regulations	1
5	Register of Interconnect Regulations	1

Regulations (2004-2017)

1. Interconnection Regulations (2004, 2012, 2017): 3

- Regulatory framework for the agreements between the service providers i.e. between Broadcasters and the MSOs/ DTH operators / HITS operators / IPTV operators/Cable operators.
- Based on this framework the service providers finalize the commercial and technical terms & conditions to arrive at an agreement.

2. Tariff order/Regulations (2004, 2006, 2010, 2017): 4

• Tariff Orders prescribes wholesale tariff, retail tariff, and the Revenue share amongst the service providers.

Regulations (2004-2017)

3. QoS Regulations (2007 (DTH), 2009(Cable Analog), 2012(Cable DAS), 2017(all DAS): 4

- Connection, disconnection, transfer and shifting of cable and satellite TV services.
- Technical parameters to be adhered by the service providers.

4. Consumer Grievance Redressal Regulations (2012): 1

Consumer complaint handling and redressal (Billing/STB/No Signal, etc).

5. Register of Interconnect Regulations (2004): 1

• Reporting of Interconnection details to TRAI to help assess the market dynamics.

New Framework for Addressable Systems (Regulations,2017)

- Reason for 2017 New Framework of regulations:
 - Digitization of Cable TV sector completed,
 - All TV services are being delivered through addressable systems,
 - Conflicts due to non-transparent business parameters (even though System provides due Addressability and Transparency),
 - Trust Deficit in Consumer Base,
 - Information Deficit to Consumers,
 - Non-uniform framework (TDSAT Observation on Uniform Broadcasting Code, 2015)
- On 3rd March 2017, TRAI notified a unified framework for addressable systems (introducing a Common Framework for DTH, Cables, HITS, IPTV).
- The notified framework contains interconnection regulation, tariff order, RIO-based Agreements and QoS & consumer protection regulations.
- Emphasis has been provided to ensure consumer choice, transparency, level playing field and non-discriminations.
- However, the framework has been challenged by some broadcasters and the matter is sub-judiced before the Hon'ble High Court of Madras.

Recent Recommendations of TRAI (2017-18)

- Recommendations submitted to MI&B on:
 - Ease of Doing Business (EODB) in Broadcasting Sector.
 - Digital Radio Broadcasting in India.
 - Sharing of Infra in Television Broadcasting Distribution Sector.
 - Digital Terrestrial Broadcasting in India
- Works in Progress on:
 - Issues relating to Up- & Down-linking of TV Channels in India.
 - Solution Architecture for Technical Inter-operable Set Top Box.
 - Issue relating to Landing Page in TV platforms.
 - Empanelment of Audit agencies.

Analysis –IV International Practices

Regulatory Areas in Pay Television	Regulations in UK (Ofcom)	Regulations in USA (FCC)	Regulations in India (TRAI)
Regulation of tariff	No regulation on pricing of Pay TV, intervenes only when there are competition issues	No rate regulation in most of the areas	Regulated at Whole sale level. Forbearance at retail level.
Licensing of channels	Licenses are required in case of linear TV channels but not for non-linear channels	No meaningful restrictions on uplink/downlink; licenses readily granted.	Licenses are required for uplinking and downlinking but these are issued by MIB and not TRAI.
Convergence of new technologies	Technology-neutral.	DTH is licensed and regulated by FCC. Outlook in respect to IPTV and OTT is unclear and varying in different States.	Technology Neutral but TRAI regulates DTH, IPTV but not OTT.

Regulatory Areas in Pay Television	Regulations in UK (Ofcom)	Regulations in USA (FCC)	Regulations in India (TRAI)
Program Packaging (Including tying, bundling, any mandatory a la carte)	Not subject to specific regulations but must comply with general Competition Law	No restrictions.	Provision for mandatory offering of channels on a-lacarte basis. In addition, bouquet can be offered.
Advertisements Regulations	TV advertising and teleshopping spots must not exceed an average of 12 minutes for every hour of transmission time, of which no more than 9 minutes may be television advertising.	No minutage limits in general programming. However, Ads in children's programmes limited to 10.5/12 min/hour.	12 Minutes per hour (including 2 minutes of self advertisement)Per Clock Hour. (sub-judiced in Hon'ble HC, Delhi).

Regulatory Areas in Pay Television	Regulations in UK (Ofcom)	Regulations in USA (FCC)	Regulations in India (TRAI)
Content regulation	Broadcasting Code generally regulates content to ensure certain standards in programming, sponsorship/ product placement, fairness and privacy	Pay-TV services perform self-regulation based on individual channel standards and guidelines. At FCC, only basic anti-obscenity rules apply to pay-TV.	Content regulated by MIB (not TRAI) as per the laid guidelines (Program Code & Advt Code of Cable TV Rules, 1994).
Re-transmission arrangement (Including Must Carry and remuneration)	Mostly decided by commercial negotiation. However, PSBs are required to make their core channels available without fee on all major platforms.	Restrictions with respect to carriage of local channels and requirement of obtaining retransmission consent.	Must-Carry provision in DAS for English, Hindi and Regional Channels. Must Provide for Broadcasters for TV Channels to registered DPOs.

Regulatory Areas	Regulations in UK	Regulations in	Regulations in
in Pay Television	(Ofcom)	USA (FCC)	India (TRAI)
Consumer protection	No specific consumer protection in relation to pay-TV services. However, general consumer protection law will apply.	Limited applicability. Consumers can complain to franchising authorities.	Regulated by TRAI as per Consumer protection and QoS regulations. Telecom Ombudsman under TRAI approved recently.

Regulatory Challenges

- Regulation in the age of Convergence (OTT, Web-based Applications, Broadband over Cable TV, etc).
- To check monopolization as convergence can lead to market consolidation, reduced competition, and new entry barriers;
- Ensuring 'level playing field' between infrastructureheavy operators and infrastructure-light operators;
- Introducing Technical Inter-operability in Broadcasting Services.

The Way Forward....

- Promoting Competition & Sector Growth, Protecting Consumer Interests & Privacy.
- Increasing thrust on technology for Regulatory Compliance.
- Optimum use of technology to increase transparency in business process/transactions and reduce litigations.
- Restructuring of existing institutions to govern and regulate in converged environment; Correcting licensing and regulatory asymmetry;
- Reduce regulatory burden if market is self corrected.
- Moving towards self-regulation.



Thanks