

***Challenges of Regulation
in a Digital Era***

***TDSAT Seminar at Kochi
5th March, 2011***

Explosive Growth of Indian Media

- Latest approvals have taken number of TV channels permitted by Government to 632 with 21 Doordarshan channels.
- 55% of the permitted channels are news and current affairs of which 230 are regional.
- Thousands of local cable channels are not even mapped or licensed or regulated.
- Distribution growth is impressive with 90 million cable homes; 30 million DTH million homes and approximately 25 million terrestrial TV homes. IPTV struggles with a million.
- 3 G is en-route to capture millions of mobiles in 2011.

Ministry's Strategic Plan for 2011 to 2017

- An impressive strategic plan has been put up on the official website in February 2011 by the Ministry of I & B for 2011-2017.
- Key policy objectives for Broadcasting Sector include:
- Streamlining and restructuring public broadcast services.
- Complete switchover to digital for cable in a defined timeline.
- Introducing appropriate IPR (copyright) regime in all media segments.
- Promotion and development of IPV and Mobile TV services.
- Creation of a self regulatory mechanism instead of a broadcast regulatory authority on the lines of the Supreme Court decision of 1993.

TRAI as Cable / Broadcast Regulator

- Cable Television/Broadcasting Services were brought under Telecom Regulatory Authority of India in 2004.
- A Fast track judicial body (Telecom Disputes Settlement Appellate Tribunal – TDSAT) was made available for settlement of disputes between broadcasters and MSOs /cable operators
- The Cable Act 1994 was amended in 2006 empowering Government to License CAS MSOs/ICOs and TRAI to issue new customer friendly CAS Regulations.
- TRAI's key roles on Regulating the Broadcast and Cable Industry includes powers for :
 - **Interconnect regulations**
 - **Tariff Orders**
 - **Revenue Share methodology and process**
- TRAI also has power to recommend **policy** initiatives to Government.

Indian Content Regulation Framework

- Broadcasters “**must provide**” all their TV channels on a ‘non discriminatory’ basis to all forms of signal seekers including MSOs/cable operators/DTH operators/HITS operators and IPTV providers. This is in terms of **Interconnection Regulations** of December 10,2004 as amended in 2006 and 2009.
- The regulations provide for 21 days notice for disconnection of signals by Broadcasters or MSOs to enable dispute resolution or resort legal remedies by seeking urgent intervention of TDSAT.
- Broadcasters have to submit their **standard interconnect offers** to TRAI to ensure non discriminatory legal and contractual terms to MSOs/cable operators.

Controlling Cable Tariff Bills

- The **pricing of channels** in analog areas was earlier regulated by a Tariff Order of TRAI in January 2004 freezing pay channel and FTA prices to 2003 rates.
- This was replaced by the October 4 2007 regulation. A new **price cap** had been put on MSOs/cable operators based on number of pay channels provided fixing maximum charges excluding taxes/duties at Rs. 260 plus taxes and also granting ala carte choice of channels to MSOs / ICOs from Broadcasters.
- Broadcasters challenged this tariff order and succeeded in getting it set aside by Hon'ble TDSAT for fresh determination. TRAI appealed against this to the Supreme Court, which ordered status quo and directed framing of fresh regulations *de novo* by TRAI.
- The Regulator submitted its recommendations to Supreme Court on July 21,2010. Final hearing is awaited.

Revolutionary Digital Addressable Tariff

- TRAI issued a digital addressable tariff order common for Digital Cable, HITS, DTH and IPTV on July 21, 2010.
- Key Features were:
 - Ala carte choice of Channels to be provided by Broadcasters.
 - Mandatory supply of Ala carte channels to Customers.
 - Broadcaster permitted to specify the rate for bouquet separately.
 - To give an incentive to digitalization TRAI directed that the rate for a bouquet of channels for addressable systems shall not be more than 35% of the rate for such bouquet as specified by the broadcaster for non-addressable systems.
 - On appeal by broadcasters this special dispensation to digital addressable platforms has been set aside by the Hon'ble TDSAT for fresh determination after giving all parties a chance to be heard afresh.
 - TRAI is yet to start the exercise of re-determination on directions of TDSAT.

TRAI's Bold Digital Approach

- As part of the re-determination exercise of various tariff structures in 2010, TRAI came to the conclusion that the cable industry must be gradually digitized with addressability within a specified time frame of 2011 to 2013.
- For implementing the sunset date for Analogue Cable TV services, the Cable Television Networks (Regulation) Amendment Act 2002, be suitably amended
- The licensing provisions made in the - “Recommendations on Restructuring of Cable TV Services” dated 25th July 2008, be implemented for LCOs and MSOs
- All service providers who have set up a digital addressable distribution network before the sunset date (s) , should be treated similar to telecom service providers and be eligible for income tax holiday for the period from the date of setting up of the network, or 1.04.2011 whichever is later, till 31.03.2019.
- The Authority recommended that the basic custom duty on digital head-end equipments and STBs be reduced to zero for the next 3 years to give a boost to conversion of the broadcast distribution network to digital addressable system.
- This has not found favor with the Finance Ministry in the 2011 budget.

Final Timelines- Analogue Sunset ?

Phase	Area suggested By TRAI in the 5/8/2010 Blueprint	Original TRAI Timeline	Ministry's Proposal on 28/01/2011	Revised timelines recommended by TRAI on 22/02/2011
I	Four Metros of Delhi, Mumbai, Kolkata & Chennai	31/3/2011	31/3/2012	31/12/2011
II	Cities with a population more than one million	31/12/2011	31/03/2013	31/12/2012
III	All urban areas (Municipal Corp / Municipalities)	31/12/2012	30/11/2014	31/12/2013
IV	Rest of India	31/12/2013	31/03/2015	31/12/2013

The Digital Path Forward

Steps Required

- Greater emphasis on network digitization, increased addressability and broadband penetration.
- The registration for cable TV operator to be replaced by a comprehensive and supportive licensing framework as per 2008 TRAI recommendations.
- Separate licensing frameworks for Cable TV operators (LCOs) and Multi System Operators (MSOs).
- No ban on new channels under uplinking and downlinking. Tougher norms for new entrants.
- A new philosophy of light feather touch regulation by TRAI with safety net of TDSAT as dispute settlement body is necessary.

Regulatory Challenges For Digital Era

- The cable industry will have to invest about Rs. 50,000 crores to convert 90 million analogue homes to digital.
- FDI of 49% for cable and 74% for HITS makes for uneven level playing field. FDI needs to be harmonized for cable industry.
- Finance Ministry is still to provide tax incentives to enable cable industry to meet the enormous challenge of digitalization in a defined time frame.
- TRAI needs to decide Interconnection and revenue share issues between broadcasters/MSOs and LCOs. Another urgent issue is to fix a wholesale cap and allow retail forbearance between broadcasters and MSOs.

Dawn of Digital Era

Thank You

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