

Nasscom's Feedback on Telecom Regulatory Authority of India Consultation Paper on Inputs for formulation of National Broadcasting Policy-2024

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INTRODUCTION

Nasscom welcomes the opportunity to submit our response to the Consultation Paper on "Inputs for formulation of National Broadcasting Policy-2024" (**Consultation Paper/Paper/CP**) released by TRAI in April 2024ⁱ.

We appreciate that the CP has laid down four high level strategic objectives of the National Broadcasting Policy (**NBP**) i.e., attracting investment, fostering innovation (following technology neutral approach), facilitating job creation, and nurturing skill development and strengthening the public service broadcasting.

1. The nature of provision of broadcasting and OTT (digital services) is completely different; OTTs should be kept out of scope of the National Broadcasting Policy.

While the above identification of objectives is appreciable, the CP does not distinguish regulatory treatment of OTTs from traditional broadcasting which were highlighted by us ([nasscom's feedback](#)) and many other stakeholders during the pre-consultation paper. These principles should be adequately considered, because at present, the CP states that "..... Presently any form of programmes like films, music and animated shows that are broadcast to a larger audience base simultaneously using different mediums/platforms and made available on various devices, may also be considered as broadcasting." (**Para 1.8**)

Here, we refer to the definition of broadcasting in the TRAI Regulations and Tariff Order, CP which defines Broadcasting as transmission of electro-magnetic waves through space or through cables (**Para 1.7**).ⁱⁱ This is different from OTT transmission which involves streaming of media delivered over the internet. In other words, OTT services operate on the "application layer" over existing network infrastructure provided by telecom service providers or internet service providers.

Also, we place reliance upon the recent decision of the Telecom Disputes and Settlement Appellate Tribunal (**TDSAT**) which held that an OTT service is not a TV channel based on several distinctions between the two, and the separate laws that govern either service.ⁱⁱⁱ

Therefore, OTTs should be kept out of scope of the Broadcasting Policy. If Government of India wants to create a policy for OTTs, it should be dealt under a separate policy initiative between MeitY and MIB.

2. Current framework on carriage and content is adequate and must continue.

We note that the CP states that "*the technological advancements, primarily the convergence of content and devices require attention of policy makers and regulatory regime. Today, the same content is available on television, smart connected screens as well as smartphones. Owing to the difference in the distribution mechanism on these platforms, they pose a regulatory challenge.*" (**Para 2.124**) Further, **para 2.125** states that ".... In terms of viewership and consumer engagement, there is still a gap between TV and digital media, TV being the medium that delivers the maximum reach. Therefore, it is important to foster harmonized growth of different broadcasting platforms through converged regulatory approach."

Given this discussion in the CP, we request the Authority to refer our past position/submission [Response to the Consultation Paper on Regulating Converged Digital Technologies and Services – Enabling Convergence of Carriage of Broadcasting and Telecommunication Services \(March 27, 2023\)](#). In this

feedback, we have clarified that often **bundling of different services** like cable TV and broadband in offerings to consumers leads to the assumption that there is a convergence of technology.

However, there are clear technical distinctions between telecom, broadcasting, and digital services, including the infrastructure and mode of transmission, that justify their separate treatment. In other words, from the supply side, all these devices, carriers and content medium are unique, even though they may share certain common characteristics.

The policy lens for both carrier and content regulation has to be different to deal with these unique and common features. We have already stated in our previous feedback ([response to the pre-consultation paper](#)) that the principles for regulating content across different platforms are different for theatres, TV, and OTT because of fundamental differences in how content is consumed via these platforms. For e.g., OTT is based on pull content meant for private viewing, which provides individual user controls, like content filtration (parental control), including personalised recommendation based on consumer preference. All these help consumers to make informed choices while viewing content on OTTs.

QUESTION-WISE FEEDBACK

We would like to clarify here that we have responded to only those questions where we have received inputs from the industry.

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).

Please refer our [response to the pre-consultation paper](#).

India as a Content and Uplinking Hub

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 content developers in terms of training, infrastructure and incentives. Provide your comments with detailed explanation.

Response to Q no 4

The CP refers to instances from overseas jurisdiction where there are local content quotas (**See, para 2.41 & 2.42**), although it neither gives any specific instance from the Indian market or rationale for highlighting local content obligations in other countries.

India, being a country of diverse linguistic geography, has a strong demand for local/regional content. TV and OTT services have been on top to meet this demand for Indian content with high levels of production investment, and diverse local content, which is widely available and accessible to Indian consumers. On TV broadcast, only 1% viewership is attributable to English. 56% of Indian TV viewership is in regional languages and 43% in Hindi. Even the market share of regional OTT services increased from 47% in 2021 to 52% in 2023^{iv}. Data on investment and availability of Indian content do not support the assertion of any market failure and there is no need for a discussion on local content quotas^v.

This is clear from the CP itself where it is stated that (**Para 2.60**):

“Industry study reveals that the share of regional language OTT platforms increased from 47% in 2021 to 52% in 2023. Content has started to travel across language barriers, where 20%-50% of consumers now consume content in more than one language using sub-titles and dubbed versions. OTT platforms desirous of national reach require focus on dubbing/sub-titles in various Indian languages.”

Therefore, the demand for local content is already being adequately met through market forces.

Q 7. What policy measures and regulatory aspects should be adopted in the NBP to nudge the growth of Indian regional content through OTT platforms?

Response to Q no 7

As highlighted above, OTT services cannot form part of the broadcasting ecosystem since they are functionally distinct from TV and radio broadcasting that involves a combination of carriage and content. Hence, it should not be part of NBP. Moreover, as discussed in response to **Q no 4**, the demand of regional content is already being adequately met by the OTT platforms.

Policy and Regulations

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.*

Para 2.64 of the CP refers to the Draft Broadcasting Services (Regulation) Bill, 2023 and states that the Bill provides a consolidated framework and extends its purview to cover the OTT services. We use this opportunity to reiterate our [position on the draft bill](#) that Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (**IT Rules, 2021**) was specifically designed as a joint exercise between the MIB and the Ministry of Electronics and Information Technology (**MeitY**) to regulate digital news publishers and OTT services.

We have also stated [previously](#), that with the changing technologies, the manner of delivering/distribution and viewing content is evolving. The NBP is an opportunity to acknowledge these differences with a focus on creativity which is the founding pillar of broadcasting.

For any queries related to this submission, please contact:

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About nasscom

nasscom represents the voice of over \$250 billion technology industry in India with the vision to establish the nation as the world's leading technology ecosystem. Boasting a diverse and influential community of over 3000 member companies our network spans the entire spectrum of the industry from DeepTech and AI start-ups to multinationals and from products to services, Global Capability Centres to Engineering firms. Guided by our vision, our strategic imperatives are to accelerate skilling at scale for future-ready talent, strengthen the innovation quotient across industry verticals, create new market opportunities - both international and domestic, drive policy advocacy to advance innovation and ease of doing business, and build the industry narrative with a focus on Trust, and Innovation. And, in everything we do, we will continue to champion the need for diversity and equal opportunity. For more details, kindly visit www.nasscom.in.

End Notes:

ⁱ See, Telecom Regulatory Authority of India, '[Consultation Paper on "Inputs for formulation of National Broadcasting Policy-2024"](#)' (April 2024).

ⁱⁱ TRAI (BROADCASTING AND CABLE) SERVICES (EIGHTH) (ADDRESSABLE SYSTEMS) TARIFF ORDER, 2017, https://www.trai.gov.in/sites/default/files/Tariff_Order_English_3%20March_2017.pdf

ⁱⁱⁱ See, [All India Digital Cable Federation vs. Star India Pvt. Ltd.](#), Broadcasting Petition/217/2023.

^{iv} See, [FICCI-EY, #Reinvent India's media & entertainment sector is innovating for the future \(2024\)](#)

^v See, Role of [OTT in promoting regional and local content](#)