TV18 Network18

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15-May-2019

Telecom Regulatory Authority of India ('TRAI')
Mahanagar Doorsanchar Bhawan,
Jawaharlal Lal Nehru Marg,
New Delhi – 110002

Kind Attn.: **Shri. Anil Kumar Bhardwaj, Advisor (B&CS)**

Subject: TV18 Broadcast Limited's response to TRAI's consultation paper dated 09-April-2019 on Entry Level Net worth requirement of Multi-system Operators in Cable TV services ("Consultation Paper")

Dear Sir,

We thank TRAI for providing us with an opportunity to submit our views on the Consultation Paper.

In this regard, please find enclosed herewith our comments on the issues raised in the Consultation Paper for your kind perusal and consideration.

Yours Sincerely,
For TV18 Broadcast Limited

TV18 BROADCAST LIMITED

Authorized Signatory

Encl.: As above

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Comments of TV18 Broadcast Limited to Telecom Regulatory Authority of India's Consultation Paper Dated 9-April-2019 on Entry Level Net Worth Requirement of Multi-system Operators in Cable TV Services

At the outset, we would like to applaud the Telecom Regulatory Authority of India ("TRAI") for choosing the topic of *'Entry Level Net Worth Requirement of Multi-System Operators in Cable TV Services'* for discussion. We would also like to thank TRAI for giving opportunity to stakeholders for placing their views on this topic by issuing the current consultation paper ("CP"). Post digitization and with enhanced focus on consumers/end-users ("Subscribers") being adequately serviced, the importance of the distribution platform operators ("DPOs") being financially stable and competent to effectively fulfill their responsibilities and duties cannot be over-emphasized.

1. Currently, any entity can register itself as a Multi-System Operator ("MSO") with the Ministry of Information and Broadcasting in India ("MIB") by simply paying a trivial entry fee of ₹1,00,000/- (Rupee One Lakh Only). Persons / entities are neither required to show if they have the financial capability to invest the huge sum of money required towards setting up and operationalizing their digital addressable cable system ("DACS"), nor are they required to show if they can sustain in the longer run. Resultantly, most of the DACS platforms are plagued with *inter-alia* the following problems:

   (a) there is no proper implementation of the various statutory requirements under the Quality of Service Regulations of the TRAI (e.g., they have not setup websites, call centers, etc.);

   (b) no trained manpower is available with majority of MSOs and hence, most of their employees are semi-skilled if not, unskilled, which results in poor consumer interface and time-consuming resolution of issues;

   (c) due to lack of funds, majority of DACS platforms do not have backup / redundancy equipment and systems, which results in unavailability of channels for long durations in case of equipment failures, etc.

   (d) due to lack of funds, DACS platforms may indulge in under-declaration of subscribers / piracy of signals so as to ensure that payouts to broadcasters remain abysmally low.

2. In the absence of robust financial entry level criteria, dubious / non-serious players have entered the business of redistribution of channels by setting up head-ends. The unethical and non-transparent business practices adopted by unethical and unprofessional MSOs include non-submission of subscriber reports / submission of doctored subscriber reports with an aim to under-declare subscriber numbers, non-maintenance of proper books of accounts, non-maintenance of appropriate systems (including conditional access and subscriber management systems), signal piracy, avoiding audit by broadcasters, non-payment of license

fee to broadcasters, absence of adequate level of infrastructure, poor quality of consumer services, absence of consumer grievance redressal mechanism, etc.

3. Specifying benchmark for entities to become eligible to register themselves as MSOs will pave the way for providing level-playing field amongst various DPOs *(i.e., direct to home ("DTH") platforms and headend in the sky ("HITS") platforms)*, since, barring MSOs, the above identified DPOs have to invest huge sums of money to even become eligible to apply for license to make its platform operational. To bring into perspective the stark disparity that currently exists, the following platform-specific eligibility criteria may be noted:

   (a) For a DTH platform to obtain license from MIB: While there is no specific net-worth requirement, however, an entry fee of ₹10,00,00,000/- (Rupee Ten Crore Only) is prescribed;

   (b) For a HITS platform to obtain license from MIB: Minimum net-worth of ₹10,00,00,000/- (Rupee Ten Crore Only) is prescribed;

   (c) For an MSO to obtain license from MIB for operating its DACS platform: A trivial entry fee of ₹1,00,000/- (Rupee One Lakh Only) is prescribed.

4. One of the ways of achieving the objective of orderly growth of the broadcasting and cable services sector is by fostering competition through creation of level-playing field for all DPOs inter-alia in terms of entry fee / net-worth requirements.

5. We submit that it is absolutely essential to evaluate the net-worth of an entity before it is granted the MSO license since, the business of retransmission of television channels requires hefty investments towards setting up infrastructure *(including but not limited to procurement and deployment of digital headend, set-top boxes (both high definition and standard definition), conditional access system ("CAS"), subscriber management system ("SMS"), other digital equipment, integration of CAS with SMS, implementing effective anti-piracy measures, etc.)* and maintaining such infrastructure by implementing necessary updates from time to time. Moreover, for an MSO should have sufficient funds to comply with applicable provisions of TRAI's notifications e.g., towards setting up of call centers, setting up and maintaining its own website, etc. It is submitted that CapEx and OpEx required to be incurred by an MSO for proper provisioning of channel distribution service through DACS platform runs into lakhs, if not crores, of Rupees. Keeping in mind these CapEx and OpEx, it is necessary to prescribe a robust net worth requirement, which will inter-alia help in ensuring that MSOs do not default in payments to broadcasters, MSOs do not default in payments to CAS / SMS vendors (which may diminish their system capabilities), MSOs are able to invest and maintain call centres, websites, etc. as may be required QOS Regulations, etc.

6. Introduction of uniform net worth / pecuniary entry level requirements will also act as a filter to ensure that fly-by-night and unscrupulous operators do not enter the system and only the serious players compete. Unless an entity applying for an MSO license is financially stable, it is hard to imagine how such entity will meet such huge financial expenses unless it resorts to

unfair means. In view of the above, it is imperative that minimum entry-level net-worth should be prescribed prior to grant of license / registration to MSOs. This will also help on checking such entity's financial readiness and sustainability to operate its DACS platform on a long term basis and ensure that such entity is treated at par with the other DPOs in the industry. In fact, once the entry-level net-worth has been finalized by MIB, then the same should be made applicable on exiting MSO license holders as well and in this regard, MIB may provide a window so as to enable them to obtain re-registration.

7. It is imperative to note that area of operation and the related subscriber base for such area of operation of an MSO is directly proportional to the CapEx and OpEx required to be incurred by an MSO. As such, an MSO operating on PAN-India basis will need to invest more on infrastructure building and maintaining high-end digital network in order to cater to Subscribers across the country, while the amount of money required to be invested in case of an MSO operating only in some towns / limited number districts will be substantially less. Accordingly, net-worth of an entity should be a determining factor while deciding area(s) of operation to be mentioned in the MSO license. Grant of areas of operation to an MSO on the basis of its net-worth will also be fair to the Subscribers of such MSO since, the MSO will be able to service them in a focused manner and will also ensure level playing field between other category of DPOs. This will also ensure that broadcaster's signals are not misused and that only serious players enter the market.

8. Since the cable industry today is very competitive and growth oriented, it has often been observed that due of paucity of funds many MSOs fail to sustain their business. Shutting down of business by MSOs not only results in bad debts for broadcasters but also adversely impacts Subscribers who are deprived of their favorite television channels despite paying for equipment and applicable subscription fee in advance to such MSOs. There have also been instances where DPOs after procuring signals from broadcasters do not commercially launch their operations. Failure to commercially launch services by MSOs, despite obtaining signals from broadcasters, results in potential risk of misuse / piracy of signals of channels. All this has an adverse impact on the entire value chain. Steady flow of money to broadcasters from MSOs ensures that broadcasters get to invest more money in creating / procuring quality content, which in turn results in Subscribers in getting to view content that match-up with international standards. Not only that, non-payment of dues also impacts the public exchequer since, applicable taxes also remain unpaid to the Government. The longevity and stability of the industry depends on the financial and technical capabilities of the MSOs and it is in this regard that we submit that having check on net-worth of an MSO should help to a great extent in addressing the above mentioned adverse impacts. This is so, because, only financially sound players will be allowed to enter the market who can stand the competition and cater to their Subscribers with good quality service and provide value for their money.

9. In view of the foregoing, please find appended below our comments on the queries raised by the Authority in the consultation paper:

(a) <u>Question No. 3.1 of the CP</u> – **Do the present rules and provisions as regards eligibility and net worth for MSO require a review or modification? Give your answer with justification?**

Comments: The present rules and provisions for MSO registration do not specify any net-worth requirements for an entity to be eligible to apply for MSO license. On the other hand, there are hefty entry level net-worth / fee requirements for other DPOs, as has been highlighted above. In view of the above, we submit that the present rules and provisions regarding eligibility and net-worth for MSO should be reviewed and modified to ensure that that only financially stable entities get MSO license and also to ensure that MSOs are capable of providing continued services at par with the other service providers in the industry.

(b) **Question No. 3.2 of the CP – If yes, should there be provisions specifying eligibility only for registered proprietorship / partnership firms or it should continue to include individuals or group of individuals as at present? Please elaborate your comments with reasons and facts.**

Comments: We are of the view that MSOs especially at individual, proprietorship and partnership levels do not have the basic comprehension of the TRAI's notifications and are largely non-compliant. Further, they do not have the wherewithal to employ persons with the requisite expertise. This coupled with lack of adequate financial strength while operating in a technology dependent, capital-intensive, dynamic sector, has resulted in a proliferation of small ill-equipped cable operators trying to operate as multi-system operators while jeopardizing interests of both broadcasters as well as Subscribers. We submit that corporatization of MSOs is the best way forward so as to bring in effective compliance and transparency in operations. This will ensure that all MSOs are complying with same parameters inter-alia with regards to maintenance of proper records, implementation of effective control mechanism, compliances including those under the Companies Act, 2013, etc.

Be that as it may, it is submitted that irrespective of the nature / legal status of the entity applying for the MSO license, the net-worth requirement should remain the same for each type of MSO since, the parameters and necessity for setting up, operationalizing and continuing operation of a DACS platform would remain similar.

(c) **Question No. 3.3 of the CP – Is there a need for prescribing an entry level minimum net worth for the MSOs? Please justify your comments.**

Comments: We submit that entry level minimum net-worth for MSOs must be prescribed for reasons setout above. We reiterate that the minimum net-worth requirement could be the only solution to ensure that the technology / infrastructure deployed by MSOs are at par with those of DTH and HITS operators since, the objective of orderly growth of the broadcasting and cable service sector can be achieved by fostering competition and creating level-playing field for all DPOs.

(d) **Question No. 3.4 of the CP – If yes, what should be the procedure to check and verify the net-worth in case of individual or group of individuals? Similarly, what should be**

the mechanism to verify the net-worth as claimed by business entities like proprietorship firm, partnership firm, LLP or Company as the case may be?

__Comments:__ For determining the net-worth of an entity, audited balance sheet and profit & loss account can be an authentic source of verification. However, to add layers of verification, income tax returns for last three (3) years, certified net-worth certificate issued by a practicing chartered accountant, copy of bank statement duly attested by the relevant Bank too should be prescribed. For determining the net-worth of a Company, in addition to the documents identified above, the shareholding structure of the company may also be requested.

In light of corporatization being proposed by us, the question of validating the net-worth of other entities (like individuals) become redundant.

Further, it should be mandatory for MSOs to maintain the prescribed net worth during subsistence of their license and in case of any reduction in net worth from the prescribed standards, the same should be intimated to the concerned authorities as well as broadcasters (as to enable broadcasters to protect their interests). In this regard, it is important to consider that the reasons for prescribing minimum entry-level net worth would hold good at the time of filing of application for license as well as during the subsistence of license.

(e) **__Question No. 3.5 of the CP__ – Should the net worth requirements for entrant MSO be based on its proposed area of operation? Give your comments with justification.**

__Comments:__ We agree with TRAI's proposal and submit that with respect to a new MSO, the net-worth requirement of such MSO should be linked with the area(s) where such MSO proposes to operate, as per its application for MSO license submitted with the MIB due to the reasons explained above. Should such MSO wish to expand its area of operation in future, then it should be required to declare its revised net-worth (i.e., such net-worth which will make it eligible for such expansion) and MIB should verify the same before granting its approval.

(f) **__Question No. 3.6 of the CP__ – If yes, what could be different classification of entrant MSOs based on area of operation? Give your comments with justification.**

__Comments:__ We submit to the TRAI that net-worth requirement of an MSO to be prescribed by MIB should be bifurcated into three levels / categories, i.e., Category 1: MSOs proposing to operate in one or more District within the same State, Category 2: MSOs proposing to operate in more than one State and Category 3: MSOs operating / proposing to operate Pan-India. In this regards we would like to reiterate our submissions above.

(g) **<u>Question No. 3.7 of the CP</u> – What should be the entry level net worth for each of the categories of MSOs if any classification is made on the basis of area of operation? Give your comments with justification.**

<u>Comments</u>: We propose that entry-level net-worth requirement for MSOs be implemented in the manner proposed by TRAI in the year 2008 *(i.e., District, State and Country wise)*, however, with threshold as follows:

Sl. No.	Area of Operation	Recommended Net-Worth
1	Category 1 - District level MSOs (i.e., MSOs proposing to operate in one or more Districts within the same State)	Rs.50 lakhs
2	Category 2 - State level MSOs (i.e., MSOs proposing to operate in more than one State)	Rs.2 crores
3	Category 3 - Country/National Level (i.e., MSOs operating / proposing to operate Pan-India)	Rs.10 crores*

*<u>Note</u>: To ensure level playing field between DPOs wanting to operate at PAN-India level, either minimum net worth requirement of Rs.10 Crores should be prescribed *(e.g., as is the case for HITS operators)*, or in the alternative, an entry fee of Rs.10 Crores should be prescribed *(as is the case for DTH operators)*.

(h) **<u>Question No. 3.8 of the CP</u> – In case, license area of MSO's is classified on the basis of area of operation, what should be the mechanism and criteria to classify existing MSOs? Please comment with proposed process to re-classify.**

<u>Comments</u>: We submit that the categorization of existing MSOs should be in the same manner as has been suggested above for new MSOs, i.e., Category 1, Category 2 and Category 3. It is necessary that the classification (at district level, state level and national level) is applied uniformly for all MSOs to ensure level-playing field amongst themselves as well as in respect of other DPOs. Accordingly, for existing MSOs, who have PAN-India licenses, these licenses will have to be revoked and fresh licenses needs to be re-issued depending upon their choice of area of operation subject to meeting the net-worth and/or entry fee requirements. The introduction of net-worth / entry-fee requirements would result in the elimination of non- serious players.

It is important to note that majority of MSOs having PAN-India license do not actually operate on PAN-India basis. The actual area of operation of these MSOs is restricted and as such, no prejudice will be caused if area of operation under fresh license is based on actual area of operation. In any event, it will be permissible for MSOs to seek additional area of operations, in case they have any plans for expansion in future, as long as they have qualifying net worth.

For the purposes of classification of MSOs on the basis of area of operation, it is proposed that MSOs can be instructed to provide declaration with respect to their then: (a) current areas of operation, and (b) Category *(from amongst the 3 categories suggested above)* in which such MSOs are to be classified. Additionally, documents in support of relevant tier of minimum net worth requirement may also be provided. Conditional license may be granted to MSOs on the basis of information and documents furnished by them however, the information and documents must be subsequently cross verified.

(i) **<u>Question No. 3.9 of the CP</u> – Should the minimum net worth required in case of MSOs operating in North East and/or J&K be relaxed compared to other regions? Please provide suitable justification.**

<u>Comments</u>: We submit that there should be no discrimination for minimum net-worth requirement in case of MSOs operating in North East India and/or in Jammu & Kashmir as this would be against the basic principle of non-discrimination.

(j) **<u>Question No. 3.10 of the CP</u> – If yes, by how much should the entry level net worth criteria be relaxed? Please give your comments with justification.**

<u>Comments</u>: In view of our response to Question No. 3.9 above, no response is required to be given to the present question.

(k) **<u>Question No. 3.11 of the CP</u> – What are the components of the fixed costs incurred by an entrant MSO? Give your comments with justification.**

<u>Comments</u>: Fixed costs required to be incurred by an entrant MSO includes, but is not limited to:

(a) Headend cost
(b) Building / space cost
(c) Internet connectivity cost
(d) CAS and SMS server cost
(e) Generator / UPS cost
(f) Airconditioning cost
(g) Costs towards hiring IT professionals

For MSOs, depending upon the combination of standard definition and high definition channels, the average headend cost varies between ~ ₹20 Lakhs to ~ ₹35 Lakhs using mix of indigenous and low cost imported equipment (for 200-250 odd channels). To set up a decent industry standard headend with professional grade equipment of international standards (Ericson / Harmonic / Cisco), the cost is ~ ₹2.5 Crores to ~ ₹3.5 Crores.

(l) **<u>Question No. 3.12 of the CP</u> – What are the components of the variable costs incurred by an entrant MSO?**

<u>Comments</u>: Variable costs required to be incurred by an entrant MSO includes, but is not limited to:

(a) rental of fibre optic cable
(b) costs towards procurement and deployment of STBs
(c) support for headend equipment and STBs
(d) support for CAS and SMS
(e) call centre / communication costs
(f) expenses pertaining to operational overheads
(g) costs towards upgradation of software
(h) costs towards marketing and promotion

(m) **<u>Question No. 3.13 of the CP</u> – How do the fixed costs and the variable costs depend upon the scale of the operation that is for the small, medium and large operators?**

<u>Comments</u>: We believe that area of operation and the related subscriber base for such area of operation of an MSO is directly proportional to the CapEx and OpEx required to be incurred by such MSO. An MSO operating on PAN-India basis will need to invest more on infrastructure building and maintaining high-end digital network in order to cater to Subscribers across the country, while the amount of money required to be invested in case of an MSO operating only in some towns / limited number districts will be substantially less. Accordingly, net-worth of an entity should be a determining factor while deciding area(s) of operation to be mentioned in the MSO license. Grant of areas of operation to an MSO on the basis of its net-worth will also be fair to the Subscribers of such MSO since, the MSO will be able to service them in a focused manner and will also ensure level playing field between other category of DPOs. This will also ensure that broadcaster's signals are not misused and that only serious players enter the market.

(n) **<u>Question No. 3.14 of the CP</u> – Should the minimum net worth required be based upon the average fixed cost incurred by an entrant? If yes, what should be the appropriate criterion? Please explain.**

<u>Comments</u>: We are of the opinion that as of now, prescribing of net-worth should be only basis the area of operation of an MSO. We reiterate our submissions made above in such regard.

(o) **<u>Question No. 3.15 of the CP</u> – Discuss if there could be some other criteria in context of costs incurred such as a combination of average fixed and variable costs.**

<u>Comments</u>: All service providers in the sector incur significant costs and face sufficient challenges to be able to render services. Hence, no special treatment should be accorded upon MSOs. Benefits if any, should be applied uniformly for other service providers operating in the industry as well.

(p) <u>Question No. 3.16 of the CP</u> – **What is the average cost incurred in establishing a minimum capacity of 100/200/300/500 channels? Should the minimum net worth depend upon the proposed channel carrying capacity of the entrant? Please justify**

<u>Comments</u>: We believe that average cost for capacity building by MSOs on the basis of number of channels is as under:

(a) For a 100 channels system, the average cost would be ~ ₹16 Lakhs
(b) For a 200 channels system, the average cost would be ~ ₹25 Lakhs
(c) For a 300 channels system, the average cost would be ~ ₹35 Lakhs
(d) For a 500 channels system, the average cost would be ~ ₹60 Lakhs.

However, we are of the opinion that prescribing of net-worth should as of now be only basis the area of operation of an MSO for the reasons mentioned by us above.

(q) <u>Question No. 3.17 of the CP</u> – **If the answer to question 16 is in affirmative, what should be the minimum net worth requirement for an entrant MSO willing to provide just the basic service tier of channels? Further, how should the minimum net worth requirement vary with increase in proposed capacity tier?**

<u>Comments</u>: We reiterate our response to Question No. 3.14 of the CP.

(r) <u>Question No. 3.18 of the CP</u> – **Should the minimum net worth depend upon the proposed number of subscribers that an applicant MSO would cater to? Please justify**

<u>Comments</u>: We reiterate our response to Question No. 3.14 of the CP.

(s) <u>Question No. 3.19 of the CP</u> – **If the answer to question 18 is in affirmative, what should be the proposed number of subscribers and the relevant net worth for the same?**

<u>Comments</u>: We reiterate our response to Question No. 3.14 of the CP.

(t) <u>Question No. 3.20 of the CP</u> – **Discuss if any other criterion could be used to determine the entry level net worth of the MSOs?**

<u>Comments</u>: We reiterate our response to Question No. 3.14 of the CP.

(u) <u>Question No. 3.21 of the CP</u> – **Should necessary modifications be made in Cable TV rules in case of individual applicants so as to ascertain his/her net worth more prudently compared to the existing regime?**

Comments: We believe that the best foot forward would be to mandate corporatization of MSO and in this regard, we reiterate our response to Question No. 3.2 of the CP.

(v) **Question No. 3.22 of the CP – Should the individual be permitted to seek MSO registration? If he/she is permitted, what should be the method for calculating and verifying his/her net worth?**

Comments: We reiterate our response to Question No. 3.21 of the CP.

(w) **Question No. 3.23 of the CP – Which documents need to be furnished at the time of registration in order to justify the given net worth requirements for all other 3 cases, i.e., body of individual, partnership firms, companies?**

Comments: We reiterate our response to Question No. 3.4 of the CP.

(x) **Question No. 3.24 of the CP – Comments on the contents of proforma on the basis of which net worth for the new entities is to be calculated?**

Comments: The proforma suggested in Annexure II of the CP should be revisited after 6 months of implementation entry-level net-worth policy so as to determine scope of improvisation / improvement.