Chapter 1

1) Do you agree that there is a need to address the issue of monopoly/ market domination in cable TV distribution? In case the answer is in the negative, please elobarate with justification as to how the ill effects of monopoly / market dominance can be addressed?

Our reply:

With 6000 MSOs in the country, 7 DTH players and 10 Mobile companies, there is enough competition in the Indian Cable Industry without any barriers.

With huge investments (highest in the value chain of the broadcasting) and the related risks being taken by the MSOs, the digital TV industry which is less than 1 year old has been offering the digital TV services at lowest prices in the world. However, we submit that the industry has been witnessing an over dose of regulation – subscription tariffs, carriage, STB pricing, QOS and now on geographical area and market share.

Since Cable TV network is kind of an infrastructure laid by by the MSO / LCO, the subscriber benefits with higher economies of scale of MSO / LCO and better QOS.

In addition to competition from Cable MSOs, every Cable MSO / LCO in India has competition from 7 DTH operators which has garnered 36% share of TV homes in a short period. DTH has seen 5 fold growth in subscriber base from 2008 to 2012.

DTH has much better reach than Cable and effective number of players in any market = No. of MSOs (6000 currently in India with access to all LCOs and customers) + 7 DTH players.

Regulation should not penalize an MSO who garnered market share through better Service and pricing.

It is respectfully submitted that the authority's concern that Cable monopoly will lead to market dominance in Internet and Voice is not true as Cable internet is less than 5% of the Indian Internet subscriber base and voice share is almost nil.

It is best left to market dynamics to determine the the market shares as customer can switch over to another MSO / DTH if price is more or service is poor.

Assuming market dominance is present in a relevant market there is an existant legislation namely ; the Competition Act which can address the ill effects of market dominance.

Chapter 2

Q2) Do you agree that the state should be the relevant market for measuring market power in the cable TV sector? If the answer is in the negative, please suggest what should be the relevant market for measuring the market power? Please elaborate with justifications.

Our below reply is without prejudice to our contention that there is no need to address the issue of market domination,**:**

Unlike in a analog environment where the head end is located in the vicinity of the subscriber base, in the DAS environment, geography does not play a role in deciding the "relevant market".

With falling bandwidth prices and the telecom companies offering solutions for video business, an MSO in J&K can connect to the LCOs in Kerala for instance without much capital investment, making this business geography agnostic and encouraging competition across the country.

With several MSOs offering 200- 300 channels already which is likely to go upto 500 channels in future, an MSO can offer all regional channels and the channel numbering can also be done to suit the local requirements in such a way that subscriber can not realize if the MSO is local or national. In this aspect, there is no difference between a DTH player and an MSO.

Without prejudice to our contention that there is no need to address the issue of market domination, given the enabling technology, we feel that the relevant market to be considered if at all , is the entire nation and not the state.

Q3) To curb the market dominance and monopolistic trends, should restrictions in the relevant cable TV market be:

- **a) Based on area of operation?**
- **b) Based on market share?**
- **c) Any other?**

Please elaborate your response with justifications.

Our below reply is without prejudice to our contention that there is no need to address the issue of market domination :

a) Restrictions can not be based on Area of operation because: Several MSOs are also serving as LCOs and many have made investments in the last mile network.

If an MSO has invested in some towns in each district, it is not possible to wind up the network in the areas / districts which will lead to loss to MSO and also affect the subscribers.

In fact restrictions relating to geographical area will be anti competitive. If an MSO is confined to a particular area he will naturally consolidate his position in that particular area by deploying all his resources there. This will naturally give rise to a monopolistic situation . Hence such restrictions will not facilitate competition but will be anti competitive.

Lastly such restrictions are violative of a person’s fundamental right to trade and do business.

b) Restrictions can not be based on Market share because: If the MSO already has a high market share due to better service or better price, the regulation should not penalize such MSO and reduce the market share, depriving the customers of their choice.

Q4) In case your response to Q3 is (i), please comment as to how the area of a relevant market ought to be devided amongst MSOs for providing cable TV service. Please elaborate your reply with justifications

As already stated above ,restrictions relating to geographical area will be anti competitive. If an MSO is confined to a particular area he will naturally consolidate his position in that particular area by deploying all his resources there. This will naturally give rise to a monopolistic situation . hence such restrictions will not facilitate competition but will be anti competitive.

Several MSOs cum LCOs have made large investments and customers have opted a service provider considering the service and price and any artificial restrictions on an MSO will lead to huge losses to MSO / LCO and promoting another MSO / LCO artificially will do more harm than good to the subscribers.

Q5) In case of your response to Q3 is (ii), please comment as to what should be the threshold value of market share beyond which an MSO is not allowed to build market share on its own? How could it this be achieved in markets where an MSO already possesses market share beyond the threshold value.

Our below reply is without prejudice to our contention that there is no need to address the issue of market domination :

Since there is competition from DTH in all places and DTH is a competitor to Cable TV, the market share metric should consider the DTH subscriber base for the relevant market while arriving at the market share.

Since the Digital TV is geography agnostic and LCOs can tie up with any MSO in the country, the market share should be worked based on nation as a relevant market and not based on a geography with in India.

On such a national level market share, a market share of 80% can be considered threshold as higher scale will enable lower prices to customers. Even here, no corrective action is needed if there is no abuse of the position from customer perspective if the threshold is breached.

Q6) In case your response to Q3 is (ii), please comment on the suitability of the rules defined in para 2.26 for imposing restrictions on M&A. Do you agree with the threshold values of HHI and increase in HHI (X,Y and Delta) indicated in this para. If the answer is in the negative, what threshold value of HHI and Delta could be prescribed for defining restrictions? Please elaborate your response with justifications.

Our below reply is without prejudice to our contention that there is no need to address the issue of market domination :

We humbly submit to you that HHI should be calculated including DTH players in the relevant market as DTH is a substitute for cable TV as several of our cable customers migrated to DTH and vice versa. DTH and cable are just two different technology platforms for digital TV (analogous to CDMA/ GSM in mobile industry).

Low HHI does not always mean good for the consumer. In analog industry 6000 MSOs may mean lower HHI but we all know the QOS levels are poor in analog and the transparency was worse leading to leakages at levels including loss of tax revenue to the government.

When there is a shift to transparency and better technology, a few MSOs may not want to be in this industry leading to higher HHI. But it does not mean the MSOs are abusing the market consolidation on price front or QOS front. The cable TV prices in India are the lowest in the world and have not been adjusted for inflation in the past 20 years.

It is our view that the prices are dependent on the cost structure in the markets than abuse of market power.

If the authority wants to fix the HHI norms, our recommendation would be to fix the X as 7500 to facilitate better economies of scale and better services to customers at optimum cost.

Between X (7500) and Y (8500), A DELTA HHI of 500 is recommended.

Above Y (8500), a delta HHI of 250 may be allowed.

Q7) Should ‘control’ of an entity over other MSOs/ LCOs be decided as per the conditions mentioned in para 2.29? In case the answer is the negative, what measures should be used to define control? Please elaborate with justifications.

No comments.

Q8) Please comment on the suitability of rules defined in para 2.31 for imposing restrictions on control. Do you agree with the threshold values of HHI and increase in HHI (X,Y and delta) indicated in this para. If the answer is negative, what threshold values for HHI and delta could be prescribed for defining restrictions? Please elaborate.

Our below reply is without prejudice to our contention that there is no need to address the issue of market domination :

We humbly submit to you that HHI computation should take into account the contribution of HHI of DTH derived from their market share in the relevant market.

Since Cable TV is a service and preference of a customer would depend on the QOS, price, there should not be restrictions but the market shares should be left to market forces.

In our view, the post Control HHI (X) may be allowed upto 7500 without restrictions.

For HHI between X(7500) and Y (8500), a HHI delta of 500 may be allowed.

Beyond an HHI of Y(8500), a delta of 250 may be considered .

This will allow a healthy market place and any attempt to abuse will be countered by the other 6000 MSOs as any MSO can connect to the LCOs / subscribers.

Q9) In case your response to Q3 is (iii) you may support your view with a fully developed methodology indicating a measure arrived at to determine market power and proposed restrictions to prevent monopoly/ market dominance in the relevant market.

Not Applicable as we are of the view that there is no need to address the issue of market domination

Q10) In case the rules defined in para 2.31 are laid down, howmuch time should be given to existing entities in the cable TV sector (which are in breach of these rules as on date), for complying with the prescribed rules by diluting their control? Please elaborate your response with justifications.

Without prejudice to our contention that there is no need to address the issue of market domination ,the rules can only be applied prospectively and not retrospectively. Even if the MSO has crossed the threshold HHI levels, the regulator should ensure that there is no abuse of the market share (in terms of pricing / QOS) rather than asking MSO to dilute the market share or equity in the acquired MSO/ LCO.

In a price sensitive market like India, consumers want a good service at a competitive price which should be encouraged by the regulator, even if it means a higher market share/ concentration.

Q11) Whether the parameters listed in para 2.33 are adequate with respect to mandatory disclosures for effective monitoring and compliance of restrictions on market dominance in cable TV sector? What additional variables could be relevant? Please elaborate your response with justifications?

A: The list is more than adequate.

Q12) What should be the periodicity of such disclosures?
A: The periodicity should be once in 2 years

Q13) Which of the disclosures made by Cable TV entities should be made in public domain? Please elaborate your response with justifications.

A: The following details can be in public domain

a) Details of key executives and board of directors
b) FDI pattern of the company

Q14) What according to you are the amendments, if any to be made in the statutory rules/ executive orders for implementing the restrictions suggested by you to curb market domination in cable TV market?

Not Applicable as we are of the view that there is no need to address the issue of market domination

Q15) Stakeholders may also provide their comments on any other issue relevant to the present consultation.

We humbly submit the following:

1) Since the Competition Commission of India has jurisdiction over the monopoly and market dominance related to various industries including media related cases in the past, it is recommended that the authority does not over regulate the Cable TV industry which has recently seen several regulations and avoid further choking of the industry which needs more investments. Over regulation at the infancy of the industry can cripple the progress of the industry.

2) While the consultation paper refers to international experience in the US, the UK and Canada, authority may kindly note the following facts:

a) The cable ARPUs in the US, UK, Canada are substantially higher than the Indian ARPUs and the players derive their revenues from Digital TV, Broadband and Voice where as Indian Cable industry depends on Digital TV alone. Dynamics of Indian Cable industry depend on higher subscriber numbers for economies of scale and sustenance the operations. Controls over market areas / market shares should not be borrowed from other countries.

Even in the UK, player like Virgin Media has a very dominant share with 3.76 Mn subscribers and it appears there are no restrictions on such market shares.

The paper mentions that in Canada, several large cities are served by only one cable company (and yet able to serve the customers without abusing the market power).

To summarise, authority is requested not to assume that the subscriber interests will be at risk if the Cable MSOs/ LCOs have higher market share and look at higher market share in a positive manner to serve the customers in an efficient manner through better economies of scale. There is enough competition from 6000 MSOs, 7 DTH players and other new technologies like HITS and IPTV on mobile devices.

Asianet Satellite Communications Ltd requests a hearing with the Hon'ble authority as per its convenience to discuss and explain through interaction, the subject matter in detail.