

Shri Anil Kumar Bhardwaj
Advisor
Broadcasting & Cable Services

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Dear Anil

I am writing with reference to your October 25 published Consultation Paper on Market Structure/ Competition in Cable TV Services. After consideration and analysis, our key comments are as follows:

Market Structure & Effective Competition. India's TV distribution remains one of the most competitive globally with the greatest choice at the lowest prices for consumers. Within the large TV subscription segment, our analysis indicates that the market will end this calendar year (CYE Dec. 2021) with a total of 129 million paying subscription households. This includes:

- 7 million analogue cable television households
- 61 million digital cable television households
- 61 million digital direct to home (DTH) satellite households
- ~0.5 million IPTV homes

In addition, individual users to various subscription-based video-on-demand (SVOD) platforms offering content online, will reach an estimated 102 million. The economic value of pay-TV subscription will reach approximately US\$6.4 billion in 2021 versus a corresponding US\$800 million for the nascent SVOD sector, where services are often consumed as an incremental top up on paid cable & satellite services. There is demonstrable effective competition and choice, from the availability of paid DTH services, free DTH (Free Dish) and HITS to cable TV services offered at the last mile.

These delivery platforms, including cable & paid legal DTH platforms, will be required to continue to heavily invest in infrastructure, technology and programming, to deliver mass and niche content services to customers across India. Such investment can only accelerate and scale with a deregulated regulatory framework that removes economic limitations on household-based pay-TV delivery platforms. This will also accelerate M&A, last mile consolidation and a healthy TV distribution sector. This has been the norm in similar large markets as technology has evolved along with consumer choice and content diversity – most notably in the UK, USA, Japan and South Korea.

Regulation of Online Video or OTT Video services. The Consultation Paper discusses how “alternate services like video streaming services should be accounted

for, while determining market dominance in Cable TV Services”. It is important to note here that Streaming services, including advertising and subscription supported VOD services, do not belong to the same relevant market as that of Cable TV.

In order to judiciously examine the call for regulation of OTT platforms at the back of dissemination of content of television channels outside of television (OTT in the present case), it is important to understand the scope and expense of the right in respect of content which is at the core of the issue.

Content is recognized as a work under the Copyright Act and is protected as copyright thereunder. Copyright itself is a bundle of rights and the copyright holder is entitled to exploit it through different modes and mediums at the same time in a manner deemed appropriate by the copyright holder. While broadcasters are disseminating content through television channels, it is incomprehensible and also incompatible with the Copyright Act (as also Article 19(1)(a) of the Constitution) to restrict dissemination on other platforms (such as OTT streaming) or to make it subject to a set of conditions which currently applies between broadcasters and licensed pay-TV distribution platform operators (i.e. DTH, Cable, IPTV, HITS).

We note that there is no global precedent for economic regulation of streaming services and similarly, economic regulation of pay-TV services have been dismantled in key global geographies.

A handwritten signature in black ink, appearing to be 'Vivek Couto', with a long horizontal line extending to the right.

Vivek Couto
Executive Director
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