Telecom Regulatory Authority of India

Consultation Paper on

"Market Structure/Competition in cable TV services"

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CHAPTER 4

SUMMARY OF ISSUES FOR CONSULTATION

Q1: Given that there are multiple options for consumers for availing television services, do you think that there is sufficient competition in the television distribution sector? Elaborate your answer with reasoning/analysis/justification.

Ans. to the Q no. 1: In the distribution sector MSOs and LCOs are involved to deliver service to the end users/viewers. In the state of West Bengal plenty of MSOs as well as LCOs are present and naturally there is enough competition for the wired service for cable tv thereby giving customers' independence to choose the cable tv service from any of the multiple service providers. So in the state of West Bengal sufficient competition is there in the television distribution. So no need for further competition. If it is further enhanced the service to end-users/customers may suffer due to over competition.

Q2: Considering the current regulatory framework and the market structure, do you think there is a need to regulate the issue of monopoly/oligopoly/market dominance in the Cable TV Services? Do provide reasoning/justification, including data substantiating your response.

Ans. to the Q no. 2: In the state of West Bengal there is no need to augment competition enhancement measures for the LCO sector as there are various and enough scope and options for customers to avail the cable TV service.

Q 3. Keeping in view the market structure of television broadcast sector, suggest proactive measures that may address impending issues related to monopoly/market dominance in cable TV sector? Provide reasoning/details, including data (if any) to justify your comments.

Ans. to the Q no. 3: Market dominance by MSOs in various ways as referred in the clause No. 3.6 does exist and very true. The MSOs with their larger economic power always try to make some sort of dominance by creating monopolistic situation either acquiring small MSOs or LCOs. So in this case some regulatory mechanisms are needed to regulate this kind of trends.

As indicated in clause No.3.10 these type of cases are too small and sporadic and if those happen those are done by LCOs keeping the customers or the Developer of the gated housing in confidence after obtaining proper permission.

Q4. Do you think that there are entry barriers in the Indian cable television sector? If yes, please provide the list and suggest suitable measures to address these? Do provide full justification for your response.

Ans. to the Q no. 4: As of now there are no entry barriers in Indian Cable TV sector. But there is need to create barrier for new LCOs in West Bengal as the competition is too high here and if new LCOs are permitted in this way quality of last mile service may deteriorate due to cut throat competition.

Q 5. Do you think that there is a need to regulate LCOs to protect the interest of consumers and ensure growth/competition in the cable TV sector? If yes, then kindly suggest suitable regulatory/policy measures. Support your comments with reasoning/ justification.

Ans. to the Q no. 5: In West Bengal there is no need to regulate LCOs as there is enough competition prevailing here.

Q6. What should be the norms of sharing infrastructure at the level of LCO to enable broadband services through the cable television infrastructure for last mile access? Is there a possibility that LCO may gain undue market control over broadband and other services within its area of operation? If yes, suggest suitable measures to prevent such market control. Provide detailed comments and justify your answer.

Ans. to the Q no. 6: In West Bengal maximum LCOs share their own infrastructure of cable TV with the ISPs to enable broadband service to the users and enough competition exists here. So no need to apply any measure here.

Q7. What should be the relevant market for measuring the market power of cable services? Do provide full justification for your response.

Ans. to the Q no. 7: District should be the relevant market for measuring the market power.

Q 8. Can a state or city or sub-city be identified as relevant geographic market for cable television services? What should be the factors in consideration while defining relevant geographic market for cable television services? Do provide full justification for your response.

Ans. to the Q no. 8: As stated in clause No. 3.18 India is a large diversified country and in a state say for example like West Bengal, the regional language spoken also varies district to district. The language used in the District of Darjeeling and Kalimpong is Nepali whereas Bengali is spoken in the rest of the state of West Bengal.
So spoken languages district wise should be factored in to define relevant geographical market.

Q 9. Do you think that MSOs and its Joint Ventures (JV) should be treated as a single

entity, while considering their strength in the relevant market? If yes, what should be the thresholds to define a MSO and its JV as a single entity? Do provide full justification for your response.

__Ans. to the Q no. 9:__ Yes, MSOs along with its JVs must be treated as single entity while considering the strength in

market.

Threshold: If an MSO acquires more than 20 percent share capital of an entity or LCO that must be treated as single entity in favour of the acquiring MSO.

Q 10. Which method is best suited for measuring the level of competition or market concentration of MSOs or LCOs in a relevant market?

a) Provide your suggestions with justification.

b) Do you think that HHI is appropriate to measure market concentration of MSOs in the relevant market? Do provide full justification for your response.

c) If yes, then in your opinion should MSO and its JVs may be considered as a single entity for calculating their HHI? Do provide supporting data with proper justification for your response.

__Ans. to the Q no. 10:__ HHI should be the best suited method to measure the market concentration and competition of

MSOs or LCOs.

a) Sheer competition always impacts product or service pricing.

b) HHI is appropriate to measure market concentration as it consider not only numbers

of connectivity it's also considers related revenue generated.

c) Absolutely, in this method of measuring concentration MSO and their JVs should be

treated as single entity.

Q 11. In case you are of the opinion that HHI may be used to measure market concentration of MSOs in the relevant market, then is there a need to revise threshold HHI value of 2500 as previously recommended? If yes, what should be the threshold value of market share beyond which a MSO and its group companies should not be allowed to build market share on their own? Do provide full justification for your response.

<u>Ans. to the Q no. 11:</u> The threshold value of market share should be not more than 2000.

Q 12. Do you think that there should be assessment of competition at LCOs level on district/ town basis? If yes, what should be threshold HHI in your opinion for such assessment. Justify your answer with detailed comments and examples.

<u>Ans. to the Q no. 12:</u> As of now LCO level assessment of competition not needed**.**

Q 13: In cases where a MSO controls more than the prescribed threshold, what measures/ methodology should be adopted to regulate so as to bring the market share/HHI below the threshold level? Specify modalities for implementation and effects of such process. Do provide full justification of your response

<u>Ans. to the Q no. 13</u>:
No MSOs should allow going to merger having more than 2000 HH Index

Q 14. Do you think that DTH services are not perfect substitute of cable television services? If yes, how the relevant market of DTH service providers differs with that of Multi System Operators or other television distribution platform owners? Support your response with justification including data/details.

<u>Ans. to the Q no. 14</u>:
No, we don't think DTH services are perfect substitute of Cable TV services unless and until they provide Internet or Broadband service along with Cable TV.

Q 15. Is there a need to change the criterion of market share in terms of number of active subscribers for determination of market dominance? Should the active subscriber base of JVs may also be considered while determining the market dominance of a MSOs. Do elaborate on the method of measurement. Provide full justification for your response.

<u>Ans. to the Q no. 15</u>:
We think the number of customer sub base should be the major criterion to determine the market share of the MSO along with their JVs.

Q 16. How the new technological developments and alternate services like video streaming services should be accounted for, while determining market dominance? Justify your response with data/ detailed comments.

Ans. to the Q no. 16:
In our view, technological development should be welcomed by all segments in this industry with a strict accountability and observation. Price parity should be maintained in the entire different streams of the industry, so that no consumer may feel being cheated. All viewing content should pass the bench mark of Indian culture and heritage. Viewing content should be segregated in two segments, with advertisement and without advertisement. Price of live content should be same in all platforms.

Q17. If HHI is used for measuring the level of competition, do you agree with the restrictions prescribed in TRAI's previous recommendations? If no, do provide alternative restrictions for addressing monopoly/market dominance in a relevant market. Do provide full justification for your response.

Ans. to the Q no. 17:
Yes, we are agreed with TRAIs previous recommendation that in no circumstances HH Index of any MSO should exceed 2000

Q18. M&A in the cable TV sector may lead to adoption of monopolistic practices by MSOs. Suggest the measures for curbing the monopolistic activities in the market. Explicitly indicate measures that should be taken for controlling any monopolistic tendency caused by a merger or acquisition. Do provide proper reasoning/justification backed with data.

Ans. to the Q no. 18:
To stop the monopoly of any MSO, merger and acquisition should be under strict observation of authorized body, such as SEBI and company registration authority. In case of any merger and acquisition LCO should be informed and LCOs opinion should be emphasized and esteemed.

Q 19. Ease of doing business should not be adversely affected by measures/ regulations to check merger and acquisitions. What compliance mechanism or regulations should be brought on Mergers and Acquisition to ensure that competition is not affected adversely, while ensuring no adverse impact on Ease of Doing Business? Do justify your answer with complete details.

Ans. to the Q no. 19:
Ease of doing business should not be hampered and affected by the regulation to restrict merger and acquisition by a MSO, as it may increase the monopolistic practice in different platform and multiple MSOs are present in the market. Consumers are in liberty to choose service providers according to their choices.

Q20. Do you agree with the definition of ‘control’ as provided in the 2013 recommendations? If not, then suggest an alternative definition of ‘control’ with suitable reasoning/justification.

Q 21. Do you think that there should be different definition of ‘control’ for different kinds of MSOs? Do explain with proper justification.

<u>Ans. to the Q no. 20 & 21</u>:

Yes, we are agreed with the definition of “Control” which is described in the 2013 recommendation. Hence no further suggestion is stated.

Q 22. Should TRAI restrict the ambit of its recommendations only on certain kinds of MSOs? Do provide full justification for your answer.

<u>Ans. to the Q no. 22</u>:

Small MSOs cannot dominate market due to their size and volume. Big corporate and multinational MSOs have the power and practice to dominate market. Hence business organizations like JIO, Airtel should not be allowed to acquire all small MSOs or LCOs by their money power. They should reach to the consumers through LCOs instead of direct connect

Q 23. Do you agree with the disclosure and monitoring requirements mentioned in the 2013 recommendations to monitor the TV distribution market effectively from the perspective of monopoly/market dominance? If no, provide alternative disclosure and monitoring requirements. Do provide full justification for your response.

<u>Ans. to the Q no. 23</u>:

Yes, we are agreed with the disclosure details and monitoring requirement mentioned in the 2013 recommendation by TRAI to monitor the TV distribution market effectively from the perspective of monopoly or market dominance.

Q24. Elaborate on how abuse of dominant position and monopoly power in the relevant market can manifest itself in cable TV services. Suggest monitoring and remedial action to preserve and promote competition. Do provide full justification for your response.

<u>Ans. to the Q no. 24:</u>

Small MSOs and LCOs should always be encouraged. If they are abolished from the market, the big and corporate MSO will dominate and consumer will face the bad effect of monopoly. Therefore, big and multinational MSOs should not be liberated to connect consumers directly. Merger, takeover and acquisition by a big or multinational company MSO should go through proper observation and guideline of the concerned authority.

Q 25. Is there a need to recommend cross-holding restrictions amongst various categories of DPOs/ service providers? Do give detailed justification supporting the comments.

Ans. to the Q no. 25:
Cross holding of both Horizontal and Vertical, among various categories of service providers should be maintained with proper regulation.

Any Other Issues

Q 26. Stakeholders may also provide their comments on any other issue relevant to the present consultation

The business that once started with a VCP/VCR, some coaxial cables and few connectors by a handful of dreaming young people has now become a giant industry of 70,000 (seventy thousand crores) throughout India in 2020-21. Cable operators or rather LCOs are providing hundreds of channels to esteemed consumers with tireless efforts and timely technical improvisations. We, the cable operators have always been faithful, sincere and co-operative with MIB (or rather the government) and TRAI although many operators have been lost from the business scenario of this cable industry.
We state our faith and gratitude to TRAI like before and welcome the newly released consultation from the bottom of our hearts. But TRAI has to realise one thing with an open mind and goodwill…that to restrict monopoly and maintain competition in the market a single operator should not be ousted from the cable business. TRAI should ensure the existence of LCOs and ensure healthy competition and maintenance of the business with accordance to the prevailing size of the market.

In case of service through wire, no MSO or corporate should be allowed by TRAI or the government to serve consumers directly because it may create a wave of unemployment in the industry.

TRAI should bring OTT or video streaming platforms under a strict regulation in accordance with the benchmark of Indian socio-cultural demands and heritage and the price of OTT content should be at par with cable TV platforms. Until and unless OTT platforms are regulated the price of broadcasting content should remain same on both platforms.

TRAI should not allow pay channels to be transmitted in free DTH services. Currently, 52 pay channels are available in free DTH services which are creating discrimination in the cable viewing platform. If TRAI is sincere about reducing cable viewing costs then they should arrange efforts to revalue GST for cable TV. A simple example to show the disparity is the 2% for gold and 18% for cable TV

TRAI should look into the matter of advertisement by broadcasters. We propose advertisement free broadcasting content, which is already in practice in Bangladesh, to be introduced and efficiently implemented in our country as well.

In case of Merger, ‘Take Over’ and acquisition of MSO, all concerned LCOs should be taken in confidence and provided with all the detailed related information.