

22-November-2021

By Email

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)

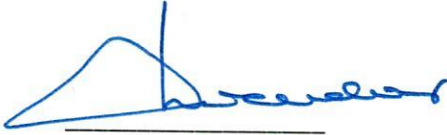
Subject: Eenadu Television Private Limited's response to TRAI's consultation paper dated 25-October-2021 on Market Structure/Competition in cable TV services ("Consultation Paper")

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 Eenadu Television Private Limited



Authorized Signatory

Encl.: As above

**Comments of Eenadu Television Private Limited
to
Telecom Regulatory Authority of India's Consultation Paper Dated 25-October-20219
on
"Market Structure / Competition in cable TV services"**

We Eenadu Television Private Limited ("ETPL") would like to thank and applaud the Telecom Regulatory Authority of India ("TRAI") for giving stakeholder an opportunity for expressing their views and submitting comments on the topic of 'Market Structure / Competition in cable TV services'. With the evolution of cable TV industry and broadcasting sector, focus has to be enhanced on consumers/end-users ("Consumer") being adequately serviced. It is need of the time to discuss upon issues related monopoly/oligopoly/market dominance in the cable television services. Notably in some state/areas of the country it is observed that the cable TV distribution is virtually monopolized by a single/few entity(ies). Existence of fair and healthy competition in market will provide better choice and viewing experience to Consumer as well as a level playing field to every stakeholder of the value chain.

1. In the present market scenario, with lots of amalgamation and mergers happening, the cable TV services has started to be controlled by few major players. In some areas/city/state the entire cable TV services is handled either by single entity and/or an entity and its JVs/subsidiaries which in turn result in dominance of such players in those particular area/state. This in turn creates entry barrier for small players and new entrants in the market and also Consumer are left at the mercy of such operators. In addition to the above, it has also been observed that, taking advantage of the monopoly in the market these players at times also dictate unfair terms to other stakeholders in the value chain, by bargaining with broadcasters for discount and in few cases also demanding higher carriage fee. Concentration of market in hands of few players have also resulted in non-compliance of the extant regulations of TRAI.
2. We would also like to submit that there should be robust mechanism formulated so as to restrict the market concentration in hands of single entity. For doing, it can be considered that no single entity and/or any person and/or body corporate (including its JVs, subsidiary, associates, holding company) shall be permitted to have market share of more than 25% in the relevant market. For, this purpose relevant market shall be restricted to districts and/or major cities in case tier 1 and tier 2 cities. This would help in promoting a fair and equal opportunity to every player in the market to operate its business irrespective of its size and presence in other markets.
3. We would like to further submit that, there is also need to keep check on the amalgamations and merger happening. The Authority need to regulate the same, there should be at least four to five players present a relevant market, this will help Consumer to choose a suitable service provider as per the offerings and their need.
4. Monopolistic situations in certain markets gives an MSO upper hand on other stakeholders, which upshots misuse of influential situations leading to unethical and non-transparent business practices adopted by such unethical and unprofessional MSOs including faulting the extant regulation and arm twisting broadcaster in some way or the other, absence of adequate level of infrastructure, poor quality of consumer services, absence of consumer grievance redressal mechanism, signal piracy, avoiding audit by broadcasters, etc.
5. 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 restricting market share and number of active subscribers handled by single entity.

6. Apropos, please find below ETPL's pointwise comments on various the issues raised by the Authority in the consultation paper:

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.

ETPL Comment: In present scenario there is lac of sufficient and healthy competition in the market, we refer to table 2.1 of the present consultation paper wherein TRAI has produced subscriber base and area of operation of major MSOs in the country, which itself shows that certain market/state are dominated for single player and/or limited players in certain market. Competition within the cable TV sector is essential as cable TV service providers operate on a state/regional basis which enables them to cater to specific need of the Consumer in such sector. Monopoly of cable TV service provider will result in killing consumer choice and imposing offering of service provider's commercial interest, i.e., the service provider will only allow access of its network to such channels of broadcasters for which it is getting hefty carriage fee without giving any heed to consumer requirement in the relevant market where it operates. Certain MSOs who operates in more than one state/area have uniform offering for all such areas without keeping in mind the geographical demography of various markets in which it operates.

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.

ETPL Comment: Yes, indeed there is need to regulate the issue of monopoly/oligopoly/market dominance in the Cable TV Services. Since, even with the presence of other mediums of distribution, MSOs play a significant role in the television channel distribution because of its uniqueness in offering local channels. Thus, the issue of monopoly/market dominance in cable TV services is significant and needs to be addressed. Please refer our submission above in this regard.

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.

ETPL Comment: Please refer our submission above in this regard.

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.

ETPL Comment: Dominant MSOs in certain markets might misuse their market power to create barriers of entry for new players, provide unfair terms to other stakeholders in the value chain and distort competition. Further, it might also lead to selective blocking of content and become an obstacle to promoting plurality of viewpoints.

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.

ETPL Comment: We are of the opinion that at this juncture there is minimalistic need to regulate LCOs since the supply of signal and offering is controlled by MSOs. The Authority may take appropriate steps to regulate LCOs at a later stage.

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.

ETPL Comment: We reiterate our submission to Q6.

Q 7. What should be the relevant market for measuring the market power of cable services? Do provide full justification for your response.

ETPL Comment: We submit that unit of measurement of the relevant market should be district or areas based on population of the district / city. There should be robust mechanism formulated so as to restrict the market concentration in hands of single entity. For doing, it can be considered that no single entity and/or any person and/or body corporate (including its JVs, subsidiary, associates, holding company) shall be permitted to have market share of more than 25% in the relevant market. For, this purpose relevant market shall be restricted to districts and/or major cities in case tier 1 and tier 2 cities. This would help in promoting a fair and equal opportunity to every player in the market to operate its business irrespective of its size and presence in other markets.

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.

ETPL Comment: We reiterate our submission to Q7.

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.

ETPL Comment: Yes, an MSOs and its Joint Ventures (JV) should be treated as a single entity, while considering their strength in the relevant market. This will ensure that such entities do not get an escape path to camouflage the holding by showing up as separate entity. We support the definition of control proposed by TRAI to determine the relationship of MSO and its JV.

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.

ETPL Comment: We submit that HHI is appropriate to measure market concentration of MSOs in the relevant market. MSO and JV should be considered 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.

ETPL Comment: The threshold should be revised to ensure that no single entity have market share of more than 25% in the relevant market. We would like to reiterate our submission in preliminary comments above to support our submission.

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.

ETPL Comment: We reiterate our submission to Q6.

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

ETPL Comment: MSOs should be given 6 months' time to comply with the revised threshold limits in order to ensure effective implementation of the framework. The Authority shall formulate an effective migration plan for Consumers so as to facilitate smooth transition of subscribers.

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.

ETPL Comment: MSOs has uniqueness in offering local channels based on geographical demography and cater to specific need of people from specific area. If DTH operate can cope up with same level of customised offering then people may choose DTH.

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.

ETPL Comment: We reiterate our submission to Q9 and Q11.

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.

ETPL Comment: In our opinion the Authority should consider to deal with alternate service provide separately.

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.

ETPL Comment: We completely support TRAI's recommendations, however we reiterate our submission on revised threshold.

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.

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.

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.

ETPL Comment: We completely support TRAI's recommendations

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

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

ETPL Comment: The ambit of restrictions shall be applicable to all MSOs in order to provide equal business opportunity to everyone.

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.

ETPL Comment: We agree with the disclosure and monitoring requirements mentioned in the 2013 recommendations.

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.

ETPL Comment: We reiterate our submission in preliminary comments.

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.

ETPL Comment: Cross-holding restrictions amongst various categories of DPOs/ service providers need to be implemented in order to horizontal concentration of power amongst such DPOs leading to dominant position and thereby curbing consumer choice.