

# Cable Operator Association of Gujarat

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President: Shri Pramod Pandya (Mobile: 9913733388)

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To,  
**Anil Kumar Bharadwaj,**  
Advisor (B&CS)-II,  
Telecom Regulatory Authority of India.

**Subject:** Comments on behalf of Cable Operator Association of Gujarat on the Consultation Paper on "Market Structure/ Competition in cable TV sector" dated 25.10.2021 ("CP").

Dear Sir,

We would like to thank the Authority for providing us with the opportunity to share our comments on the CP.

The broadcasting sector is catered by four permitted Distribution Platform Operators (DPOs), i.e. MSOs, DTH, HITS and IPTV. The OTT platforms are also evolving as a competing platform,

Considering the present day situation in the cable television industry, competition is already in existence to MSOs from DTH, IPTV players and HITS operators as well as the platforms of Free Dish and OTT platforms. This has ensured that consumer is no longer obligated to subscribe to cable television services of any one particular DPO. Accordingly, the services of the said DPOs are both inter and intra-substitutable and also substitutable with the services rendered by Free dish as well as OTT platforms.

We state that while that there does not exist any monopolistic situation amongst the DPOs, however, the same is not true for the broadcasters. It is imperative to note that out of the total number of 322 pay television channels, 245 pay channels are only that of Star India Private Limited, Zee Entertainment Enterprises Limited, TV18 Broadcast Limited, Sun TV and Sony Pictures India Private Limited. The attention of the Authority is drawn to the fact that only the aforesaid five broadcasters are carrying around 76% of the pay television channels in India. We

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have also provided a data split for ease of reference and for better clarity and understanding of the Authority:

S No.	Name of the Broadcasters	Number of Pay Channels that are being transmitted
1.	SIPL	71
2.	SPNI	26
3.	TV18	56
4.	SUN	31
5.	ZEEL	61
<b>Total</b>		<b>245</b>

The aforesaid data evidently establishes that broadcasting sector is significantly dominated by five major dominant broadcasters. The Authority is also well aware that unlike the DPOs, the broadcasters are given complete liberty to price their channels out of free will and choice and are not subjected to any regulatory restrictions. The increase in the prices by 150-200% of the major pay television channels at the time of implementation of the new regulatory framework in 2019, bears evidence of the fact that not only the broadcasting sector is dominated by certain key players but also these broadcasters have been abusing and have continued to exploit the subscribers by fixing exorbitant prices of their respective channels.

Moreover, channels of a genre like 'sports' are provided by only two broadcasters, i.e. SIPL and SPNI. Therefore, there is severe lack of competition amongst the broadcasters for provisioning of pay television channels and an evident duopoly subsists for the 'sports' genre of pay television channels. These broadcasters have also engaged themselves in the act of imposing same prices on their respective premiere sports channels, i.e. 'Star Sports 1' and 'Sony Ten 1'. They are therefore, abusing their dominant position by forming a cartel and are colluding with each other to determine prices of their respective channels. This is in utter defiance of the spirit of competition and in the adverse interests of the consumers.

The Authority has also observed in one of its consultation papers that there has been a sheer decline in revenues of certain small broadcaster players on account of which they have been compelled to shut their business operations. It is imperative that the aforesaid situation of market dominance amongst the major broadcaster players also stands as one of the significant reasons on account of which the niche players have been forcibly ousted in the broadcasting sector, which is in grave defiance of the spirit of competition.

In light of the aforesaid, it is strongly urged that the Authority should look into the aforesaid issue and introduce applicable market capping/ restrictions on the broadcasters for the development and subsistence of a perfect healthy competitive market, which will also ensure furtherance of the interests of the consumers as well as other niche broadcasters in the broadcasting sector.

In light of the aforesaid, we hereby proceed to respond to the issues of the present CP.

### 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.**

AND

**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.**

AND

**Q3. 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.**

**Response:** We state that a perfectly competitive market is existing amongst the DPOs wherein the services of DPOs are perfectly inter and intra substitutable amongst one another as well as amongst the platforms of Free Dish and OTT players. Any regulatory intervention in terms of market capping/ regulations is uncalled for and will be in utter defiance of the spirit of a competitive market and interests of the stakeholders, including liberty of the consumers to avail services of their desired service-provider.

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**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.**

**Response:** We state that there does not exist any form of entry barrier in the Indian cable television sector.

**Q5. 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.**

**Response:** We do not see any need to regulate the LCOs in light of competition/ market structure. However, we do suggest bringing uniformity in the Right of Way (RoW) process/approvals across the entire country.

**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.**

**Response:** We state that before enabling provisioning of broadband services through the cable television infrastructure, the Authority should consider granting of 'infrastructure status' to the network of LCOs for facilitation of capital borrowing for infrastructure upgrade, tax holiday, exemption on applicable custom duties on various equipment like OLT,ONU, etc.

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

**AND**

**Q8. 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.**

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**Response:** No Comments.

**Q9. 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.**

**Response:** We are of the view that each licensed entity should be construed separately for the purpose of ascertaining the subscriber base.

**Q10. 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.**

**AND**

**Q11. 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.**

**Response:** We state that there is no instance of monopoly that is prevalent in the broadcasting sector amongst the DPOs. We do not advocate the use of HHI. We state that market dominance can only be truly ascertained by taking into account the market shares of all the players, i.e. MSOs and LCOs but also by DTH, HITS, IPTV, Free Dish as well as OTT platforms, hence Authority should first set up a mechanism for mandatory submission of data of all the entities and such data should be duly audited by the Authority. This becomes relevant because unless correct and duly verified data is obtained by the Authority for the purpose of computation of

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market shares basis any market concentration tool, the same will fail to provide and establish an accurate extract leading to a sheer failure in analyzing the prevalent instances of dominance, if any.

**Q12. 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.**

**Response:** We do not see any need to regulate the LCOs in light of competition/ market structure.

**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.**

AND

**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.**

**Response:** There is nil probability of the existence of any dominant player, hence no restriction should be introduced as the same will have an adversarial impact on the interests of the DPOs.


**Q14. 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.**

**Response:** Please refer to our response to Q No.1-3.

**Q15. 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.**

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**Response:** Refer to our response to Question Number 9.

**Q16. 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.**

**Response:** The video and audio streaming services as well as the OTT platforms should be taken into consideration for the purpose of determination of market dominance.

Taking into consideration the growth in the number of OTT subscriptions across the entire country, the OTT services have huge potential to acquire market dominance.

**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.**

**AND**

**Q19. 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.**

**Response:** The Competition Commission of India (CCI) exists as the apex body to monitor and regulate any instance of abuse of market-power and anti-competitive arrangements. The activities that are proposed to be regulated are already covered under the Competition Act, hence no additional regulatory framework is required to be introduced.

**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.**

**AND**

**Q21. Do you think that there should be different definition of 'control' for different kinds of MSOs? Do explain with proper justification.**

**Response:** The definition of 'control' as prescribed under The Companies Act, 2013 shall be applicable, for all purposes.

**Q22. Should TRAI restrict the ambit of its recommendations only on certain kinds of MSOs? Do provide full justification for your answer.**

**Response:** There is no requirement to introduce any form of restrictions regarding market capping on the MSOs/LCOs as their services are perfectly substitutable amongst the DPOs as well as OTT and Free Dish players.

**Q23. 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.**

**Response:** No Comments

**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.**

**Response:** There cannot be any instance of prevalence of 'abuse of dominance' in the distribution of cable television services on account of presence of wide number of players and the services catered by such players being perfectly substitutable.

**Q25. Is there a need to recommend cross-holding restrictions amongst various categories of DPOs/ service providers? Do give detailed justification supporting the comments.**

**Response:** No restriction should be introduced.

**Q26. Stakeholders may also provide their comments on any other issue relevant to the present consultation.**

No Comments

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