

COMMENTS / SUGGESTIONS AND RECOMMENDATIONS ON TRAI
CONSULTATION PAPER No. 1/2013 DATED 15th Feb, 2013

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(AN INDEPENDENT MSO IN DELHI)

22nd Apr, 2013

The Chairman
Telecom Regulatory Authority of India
New Delhi – 110002

Subject: Issues relating to media ownership

Dear Sir

On the onset we would like to congratulate TRAI for releasing consultation paper on “Issues relating to media ownership” and also we would like to congratulate Government for implementation of digital cable TV services in India successfully in phase I and II. Now after digitalization we need to think about the contentious / grey areas which were left untouched earlier or need modifications for the smooth operations. These are mentioned below:

Sir, media ownership, cross holdings, vertical and horizontal monopolies, cartelization etc. are just like a ghost which is there for everyone to see & feel but very difficult to prove on paper due to the complex web of ownership, multiple crossholdings, subsidiary companies etc. created by these business houses with monopolistic mindsets. They are taking undue advantage by indulging in these types of unfair practices and which are difficult to prove in court of law because of the loopholes existing in present laws. TRAI also mentioned in brief about these practices in consultation paper.

Sir, to end this type of ghostly practise adopted by these monopolistic corporates firstly we should break/bifurcate the whole system in small segments/pieces. In future Whoever try to convert these smaller segments under one umbrella to create a single entity which results in vertical, horizontal or any other kind of monopoly should be restricted & dealt with as per the respective law. The Govt. should treat these practices especially in media & broadcasting as a criminal offence as this results in abolition of plurality from the society which is the basis essence of our constitution.

1. Break vertical monopoly /cross holding in media and distribution platform.

- (a) Stop broadcasters to invest in distribution platform like DTH/MSO/IPTV/HITS/Newsprint & vice versa
- (b) Stop DTH/MSO/IPTV/HITS/Newsprint to invest in each other business. This will result in more investors / service providers coming in this trade and benefit the consumers and transparency will be achieved.
- (c) Restrict same VC or other financial institutions to invest / extend loans in more than one media / broadcasting / distribution company..

2. Broadcasters:

(a) In cable rules, the definition of Broadcasters is:-

“Broadcaster” means any person including an individual, group of persons, public or body corporate, firm or any organization or body who or which is providing programming services and includes his or her authorized distribution agencies;]

Now on a very careful examination of the Broadcaster definition the aim & objects of law makers become very clear that they did not want the monopolies to be created in distribution. This was the only reason the “authorized distribution agencies” word was included instead of “authorized distribution agent”. But over the years the Broadcasters overlooked the intent of law makers & always offered the content through a single agent. In recent past they went a step further neglecting the intent of lawmakers by appointing a single distribution agent for multiple broadcasters thereby attaining new heights of monopoly & cartelization practises.

In 1994 when cable rules were framed, the line “includes his or her authorized distribution agencies” which means that any broadcaster who is airing the channel from abroad and airing the channel in India through their authorised distributors but in today’s scenario this definition needs to be changed or clarification of the term is required because due to this phrase channel aggregators also come in the picture which is totally illegal business. Ministry of I&B and TRAI also never recognised channel aggregators in any of their documents. Channel aggregators business is totally illegal.

Ministry of I&B and TRAI only recognize licensed broadcasters, licensed MSOs, licensed DTH operators and licensed LCOs.

Submission 1: First of all a Broadcaster is a Broadcaster, his agents and distributors should not be treated as Broadcaster by any stretch of imagination. Therefore the part of the sentence “and includes his or her authorized distribution agencies” should be deleted.

OR

Submission 2: Clarify that the line “includes his or her authorized distribution agencies” means that any broadcaster who is airing the channel from abroad and airing the channel in India.

If Govt. / TRAI accepts any of the submissions mentioned above then this channel aggregators business resulting in monopolistic practise automatically becomes illegal. .

- (b) Restrict the number of channels by each broadcaster; it should not be more than ten. Also further restrict the number of channels genre wise for each broadcaster, it should not be more than two.
- (c) Every broadcaster either distribute their contents themselves or shall appoint compulsory minimum of two or more agencies / distributors as was the Intent of law from whom the service providers (MSO/DTH Operators) can take contents. In this scenario no channel aggregator is permitted. Agreements should only be between License Broadcaster and License Service Provider (MSO/DTH Operator).
- (d) Broadcasters must declare MRP of individual channel as well as bouquets of channels to the subscribers so that transparency be maintained. Subscribers must know the MRP of the

channels they choose so that they may not feel cheated. Presently on different platform different service providers are charging different rate for the same channel. LCOs also have no idea about the rate on which they will get the margin. If broadcaster declare the MRP then it becomes easy to achieve the transparency at each and every level.

- (e) Presently restriction of 12 minutes per clock hour on advertisements is same for FTA and pay channels. This is unjustified. This restriction is right for FTA channels but for pay channels it should not be more than 6 minutes because if TRAI keep the difference in the restriction then it is easy to convert the pay channels into FTA channel or FTA channel into pay channel depending upon the higher source of revenue (advertisement or subscription). In both the cases subscriber will be benefitted, if he subscribe FTA channel then he has to pay less and if he subscribe for pay channel then he can freely watch the channel with less advertisements.

3. MSO:-

(a) Restrict the total number of subscribers per control room like one control room should not have more than 1 million subscribers. E.g. if MSO disturb any broadcaster's service like MSO disturb audio of the channel of broadcaster and gave the explanation in the court that it was due to some technical problem but if the MSO has more than one control room and in all the control room the problem remains the same then it is clear that it is the malafide intention of the MSO and the act is done by the MSO deliberately.

e.g. If an MSO have 4 millions subscribers then as per TRAI guidelines of 5% subscribers demand any particular channel then MSO must have to telecast that channel on their network which comes to 200000 subscribers. In case of restriction of 1 million subscribers, the figure comes to 50000 subscribers. Then in that particular area of MSO that channel can be broadcast.

(b) Restrict MSO that there shall not be more than 20% stake of total subscribers base of the respective city.

(c) Apart from this restriction, state level restriction can also be imposed. An MSO can be restricted to a particular state like MSO can cover 5 states and not more than that.

(d) Inter operatable issue :-

Govt. also wants inter operatable STBs for the benefit of the subscribers but still MSOs/DTH operators not implemented this feature in their STBs.

In this context, TRAI give strict instructions to the distribution platforms like MSO/DTH etc. that If a subscriber purchase set top box from open market which is inter operatable set top box, then MSO/DTH player must provide CAM Module + CAS card to the subscriber so that subscriber easily switch over their service provider.

In this context, I would like to bring to your kind notice that TV manufacturer also ready to launch their TVs in which in built CAM Module feature is available. This will enable the subscriber to end the need of STB and it will also diminish the huge investment in STBs by the service providers.

4. DTH:-

(a) No MDU allowed for DTH.

(b) Inter operatable issue :-

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- (c) If any subscriber of DTH service provider wants to switch over to DD Direct Govt. services on the same STB then the STB should be able to tune on DD Direct DTH services.
- 5. Need broadcasting law in the country.
- 6. TRAI recommends for promoting digitalisation for waiver of import duty and income tax exemptions which is not yet been done.
- 7. Transparency required on each level.
 - (a) Between Broadcasters and MSO
 - (b) Between MSOs and LCOs
 - (c) Between LCOs and consumers

Thanking you

FROM M/S. DELHI DISTRIBUTION CO.

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