

***Response of Siti Networks Limited***  
***to the Consultation Paper on***  
**Market Structure/Competition in Cable TV Sector**

At the outset, we are thankful to the Authority for providing us the opportunity to share our comments on the consultation paper on Market Structure/Competition in Cable TV Sector.

We want to submit that the Cable TV Sector is running in the current scenario in the highly regulated regime. Linear cable television has consistently shown a downward trend in the last two years. Overall penetration of cable TV in the country has shown

a downward trend despite people working from homes and most people not going out of their homes due to lockdowns or restricted movements during the pandemic.

The OTT platforms, which are presently outside the purview of any licensing and regulatory framework, also enable the consumers to access video/television services and have evidently established themselves as yet another platform for distributing media content and video services, including linear TV Channels. This is established that there exists no monopoly in the television distribution sector. Presently, there is stiff competition in the sector among MSOs and alternate DPOs like DTH, IPTV players and HITS operators, and the platforms of Free Dish and unlicensed/unregulated OTT platforms. Availability of content, including linear channels across all the aforesaid mediums and platforms, has ensured that the consumer is no longer obligated to subscribe to cable television services from MSOs only.

Thus, it is evident from the above that presently there is ample competition in the Distribution sector and any monopoly is not prevailing or subsisting in the Distributing industry. Monopoly refers to a market with a single/dominant seller for a product. There is no close substitute of the commodity offered by the said sole /dominant supplier to the buyers. It has been established that the services provided by the DPOs are perfect substitutes in the market. All such DPOs are providing similar service and already offering various competitive subscription schemes to the subscribers, creating fierce competition. Moreover, the extant regulations (as amended from time to time) that govern the broadcasting and cable sector in terms of the Cable Television Act, 1995, the Cable Television Network Rules, Interconnection Regulations, Tariff Order, Quality of Service Regulations, etc. have ensured that the interests of the consumers are always protected, tariffs are regulated, quality of service is maintained, and hence, it is expected that all DPOs that are

conducting business in this sector, strictly do so, in conformity with the provisions of the applicable regulatory framework. Therefore, the DPOs are heavily regulated and are being micro-managed in terms of the regulatory framework.

## **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.**

**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**

**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.**

**Response:** As mentioned in the above paras, we would like to submit that in the sheer presence of a perfectly competitive market wherein the services of DPOs are perfectly substitutable not only from amongst the DPOs and platforms of Free Dish and unlicensed OTT players but also inter-se within the same platform and service providers, any restrictive treatment 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. Rather introduction of more regulations is prejudicially affecting the industry's growth and is also resulting in degrowth.

**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 would like to state that there does not exist any form of entry barrier in the Indian cable television sector. Any entity desirous of functioning as a multi-system operator can do so easily by obtaining a permission/ license from the Ministry of Information and Broadcasting under Rule 11 of the Cable Television Network Rules, 1994. Similarly, any LCO can become operational by obtaining a postal registration in Rule 5 of the Cable Television Network Rules, 1994.

**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.**

**Response:** To streamline and bring complete uniformity in the registration process of LCOs across the entire country and ensure that such LCOs have ease in provisioning their services, we suggest that a central registering authority with a centralized web portal be notified under the CTN Act for hassle-free registration of such LCOs. It is suggested that such LCOs may be permitted to register themselves with MIB using an automated platform with Aadhar verification and an undertaking be obtained from the LCO to comply with all relevant provisions of the CTN Act. Besides the aforesaid, it is also urged that the Authority ensure that the LCOs ensure

strict compliance with the applicable regulatory framework and the subsisting agreements that are executed by them for retransmission of signals in terms of the Interconnection Regulations.

**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:** Most MSOs barring the National MSOs that are engaged in the provisioning of broadband services through LCOs infrastructure, are doing so using outdated technologies, which proves ineffective in the delivery of high-speed broadband services. Therefore, the provisioning of high-speed broadband services using the fiber network of LCOs would require an upgradation of LCO's network to the latest available technology, that calls for huge investments and support from the government. We therefore urge the Authority to grant 'infrastructure status' to Broadcasting & Cable industry and thereby allowing the MSOs and the LCOs to access the following benefits:

1. Capital borrowing should become cheaper for upgrading technologies and optical fiber networks.
2. Considerable reductions in interest rates shall be allowed for long-term borrowings.
3. Ease in getting higher external borrowing
4. Special financial assistance from external agencies like India Infrastructure Finance Co, IDFC, etc., to be extended to the broadcasting sector.
5. Tax holiday as per 80-1A of Income Tax act.

6. Exemption from paying customs duties on Optical Line Terminal (OLTs), Optical Network Units (ONUs), Network Operations Centre (NOC) infrastructure, that are used for providing broadband services,
7. Providing impetus to indigenous manufacturing of OLTs, ONUs, and NOC-related infrastructure, ensuring that the indigenous products are available at comparable prices.

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

**AND**

**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.**

**Response:** 'Relevant market' in general parlance means the relevant product market or the relevant geographic market or with reference to both areas. The relevant product market would include all prevalent technologies/platforms, i.e., cable television, DTH, HITS, IPTV, Free Dish, OTT players, and the relevant geographic market will include the entire country as all the aforesaid platforms are provisioning their services across the entire country, on a pan-India basis. Therefore, the relevant market for all players should be 'pan India' and shall include subscribers of all technologies/platforms across the country.

We are of the strong view that there should be no segregation of criteria for market concentration amongst the players.

**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.**

**Response:** We are of the view that each licensed entity, irrespective of being a joint venture or subsidiary of any other company, should be considered as a separate entity. To ascertain the relevant market, the subscriber base should also be independent and separate for each such licensed entity.

**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.**

**AND**

**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.**

**Response:** Placing reliance on the introductory remarks, we reiterate 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 or any such market concentration measures, for ascertaining market dominance on account of a couple of concerns that need to be addressed. The Authority has established that HHI index is determined by summing the squares of individual market shares of all market participants. As has already been established, the distribution services in the present times are being catered not only by the MSOs but also by DTH, HITS, IPTV, Free Dish, and OTT platforms, which have become formidable players and are providing huge competition to the MSOs. Therefore, the MSOs cannot be singled out for ascertaining dominance in any geographical market as the same would stand arbitrarily against the interests of the MSOs. Hence, market dominance can only be truly ascertained by taking into account the market shares of all the players, i.e. MSOs, DTH, HITS, IPTV, Free Dish, and OTT platforms.

**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.**

**Response:** We do not see any requirement of assessment of competition at LCO level as there exist enough competition among the LCOs.

**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**

**Response:** As already submitted in our opening comments that there are enough choice among the platforms. Apart from MSOs, DTH, Free Dish, HITS and now OTTs are also present for the customer to choose from. Hence there is no need to regulate the MSOs to control the market share.

**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.**

**Response:** In our opinion MSOs/DTH/Free Dish/HITS and now OTT is a perfect substitute of cable television service. All the television content is available in all the above platform. Now the Authority should regulate the OTT which is not a regulated platform as of now. Cable TV industry is already highly regulated and any further regulations will negatively effect the industry.

**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.**

**Response:** We are of the view that each licensed entity, irrespective of being a joint venture or subsidiary of any other company, should be considered as a separate entity. To ascertain the relevant market, the subscriber base should also be independent and separate for each such licensed entity.

**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.**

**Response:** The unlicensed video and audio streaming services as well as the OTT platforms should be definitely accounted for the purpose of determination of market dominance. We have already established in our introductory comments that the OTT platforms, that are presently outside the purview of any licensing and regulatory framework, enable the consumers to have access to video/television services and have evidently established themselves as yet another platform for distributing media content and video services

**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:** As already submitted in our opening comments that there are enough choice among the platforms. Apart from MSOs, DTH, Free Dish, HITS and now OTTs are also present for the customer to choose from. Hence there is no need to regulate the MSOs to control the market share.

**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**

**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.**

**Response:** The Authority's kind attention is drawn to the established regulatory framework in terms of the Competition Act, 2002 that has set up a nodal and regulatory body in the name of 'Competition Commission of India' (CCI) to investigate into any and all forms of anti-competitive agreements/ abuse of dominant position and the CCI also has powers to impose heavy penalties and direct entities to discontinue their operations and/or any instance of abuse of dominant positions. The Competition Act is a comprehensive legislation that deals with anti-competitive practices and lays down stringent policies for violation of the same. Importantly, the provisions of the Competition Act clearly state that it will override all other provisions contained in any law and that its provisions are in addition to and not in derogation of any other law. Thus, any proposed restrictions to regulate anti-competitive activities in the cable industry may result in a conflicting jurisprudence or positions being developed. The CCI also has wide powers to regulate traditional mergers and acquisition activities and the acquisition of control, shares, voting rights or assets, or any other instance of indirect control. Therefore, 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, any parallel legislation imposing any form of restrictions/ market cap on MSOs/ LCOs will only act as an impediment for growth and add up to the confusion, expose the stakeholders concerned, to unnecessary litigations and judicial interventions.

**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**

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

**Response:** In order to facilitate ease of doing business and to avoid unnecessary confusion, there should be uniformity in the regulatory regimes. Therefore, corporate compliances and sectorial compliances should be in sync with each other as conflicting provisions would expose to unwanted and unnecessary litigations and jurisdictions. Hence, the definition of 'control' as prescribed under The Companies Act, 2013 shall be applicable, for all purposes.

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

**Response:** Please refer to our responses to the previous questions. We are of the strong view that the services of MSOs, DTH, IPTV, HITS, Free Dish and unlicensed OTT platforms are perfectly substitutable amongst one another. Moreover, on account of presence of large number of MSOs as well as the LCOs who are spread across wide geographies and across the country, the services of such MSOs and LCOs are also substitutable within their own platforms. Hence, there is no requirement to introduce any form of restrictions regarding market capping on the MSOs

**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.**

**Response:** We believe that all players in the Television Distribution Market should be mandated to share the aforesaid information, without any exception, so that the Authority has an overall and accurate insight into the television distribution market.

**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:** As clarified, there are a wide number of players, the services catered to being perfectly substitutable and on account of DPOs being heavily regulated in terms of stringent regulatory framework.

**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.**

**Response:** The cross-holding restrictions are already in place in terms of the licensing framework of DTH and HITS operators. As detailed earlier, there is no evidence of monopoly/market dominance by any of the DPO, irrespective of 'vertical integration', 'horizontal integration' or otherwise. Therefore, there is no need or justification for any further limitations/ restrictions in terms of cross holding restrictions amongst the players in the broadcasting and cable television distribution sector.

Any Other Issues

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

The Services of OTT should also be regulated so that they should be also at par with other distribution platform.