

July 1, 2013

Mr. Rajkumar Upadhyay
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Re: Consultation Paper on Monopoly/Market dominance in Cable TV services

Dear Sir,

Viacom18 Media Private Limited welcomes the initiative taken by the Ministry of Information & Broadcasting and the Telecom Regulatory Authority of India (“TRAI”) for releasing the Consultation Paper no. 5/2013 dated June 3, 2013 on Monopoly/Market dominance in Cable TV services (“**Consultation Paper**”) and seeking views of the stakeholders on issues raised therein.

We have tried to present our views on the Consultation Paper issued by TRAI and our response on each of the issues is discussed in brief in the following pages.

For **Viacom18 Media Private Limited**


Kunal Rajpal
AVP – Legal & Secretarial

Viacom18 Media Pvt. Ltd. (A Viacom and Network18 Joint Venture)

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Responses on the Consultation Paper on Monopoly/Market dominance in Cable TV services

- Q1.** Do you agree that there is a need to address the issue of monopoly/market dominance in cable TV distribution? In case the answer is in the negative, please elaborate with justification as to how the ill effects of monopoly/market dominance can be addressed?
- R1.** We agree with TRAI's view that there is a need to address the issue of monopoly/market dominance in cable TV distribution.
- Q2.** Do you agree that the State should be the relevant market for measuring market power in the cable TV sector? If the answer is in the negative, please suggest what should be the relevant market for measuring market power? Please elaborate your response with justifications.
- R2.** We agree with TRAI's view that for dealing with monopoly and market dominance in cable TV services, the State could be considered as a unit of operation
- Q3.** To curb market dominance and monopolistic trends, should restrictions in the relevant cable TV market be:
(i) Based on area of operation?
(ii) Based on market share?
(iii) Any other?
- R3.** We understand that to curb market dominance and monopolistic trends, restrictions in the relevant cable TV market should be based on the market share of the MSO.
- Q4.** In case your response to Q3 is (i), please comment as to how the area of a relevant market ought to be divided amongst MSOs for providing cable TV service. Please elaborate your response with justifications.
- R4.** Not applicable.
- Q5.** In case your response to Q3 is (ii), please comment as to what should be the threshold value of market share beyond which an MSO is not allowed to build market share on its own? How could this be achieved in markets where an MSO already possesses market share beyond the threshold value? Please elaborate your response with justifications.
- R5.** We are of the view that TRAI's recommendations in respect of mergers of CMTS/UAS licences adequately prescribe the market share beyond which an MSO is not allowed to build market share on its own. In situations where the MSO already possesses market share beyond the threshold value, any further acquisition of market share by the MSO should be prohibited.
- Q6.** In case your response to Q3 is (ii), please comment on the suitability of the rules defined in para 2.26 for imposing restrictions on M&A. Do you agree with the threshold values of HHI and increase in HHI (X,Y and Delta) indicated in this para. If the answer is in the negative, what threshold values for HHI and delta could be prescribed for defining restrictions? Please elaborate your response with justifications.
- R6.** We agree with the views expressed by TRAI in para 2.26.

- Q7.** Should 'control' of an entity over other MSOs/LCOs be decided as per the conditions mentioned in para 2.29? In case the answer is in the negative, what measures should be used to define control? Please elaborate your response with justifications.
- R7.** WE agree with the definition of 'control' as laid down in the Competition Act, 2002.
- Q8.** Please comment on the suitability of the rules defined in para 2.31 for imposing restrictions on control. Do you agree with the threshold values of HHI and increase in HHI (X, Y and Delta) indicated in this para. If the answer is in the negative, what threshold values for HHI and delta could be prescribed for defining restrictions? Please elaborate your response with justifications.
- R8.** We agree with the rules laid down by TRAI in para 2.31 of the Consultation Paper including the rules pertaining to threshold values of HHI and increase in HHI.
- Q9.** In case your response to Q3 is (iii), you may support your view with a fully developed methodology indicating a measure arrived at to determine market power and proposed restrictions to prevent monopoly/ market dominance in the relevant market.
- R9.** Not applicable.
- Q10.** In case rules defined in para 2.31 are laid down, how much time should be given to existing entities in the cable TV sector (which are in breach of these rules as on date), for complying with the prescribed rules by diluting their control? Please elaborate your response with justifications.
- R10.** We are of the view that the existing entities in the cable TV sector (which are in breach of these rules as on date) should achieve compliance with the prescribed rules by diluting their control by 31st December 2014.
- Q11.** Whether the parameters listed in para 2.33 are adequate with respect to mandatory disclosures for effective monitoring and compliance of restrictions on market dominance in Cable TV sector? What additional variables could be relevant? Please elaborate your response with justifications.
- R11.** We believe that the parameters listed in para 2.33 are adequate with respect to mandatory disclosures for effective monitoring and compliance of restrictions on market dominance in Cable TV sector. The Authority may however consider to include reference to the licenses and permissions obtained by the MSO/LCO in the said parameters. (OK)
- Q12.** What should be the periodicity of such disclosures?
- R12.** We believe that such disclosures can be made on a quarterly basis.
- Q13.** Which of the disclosures made by the Cable TV entities should be made available in the public domain? Please elaborate your response with justifications.
- R13.** We are of the view that details of MSO/LCO operated by the Cable TV entity, the Areas of Operation, the list of Channels available, exact number of subscribers served amongst other details should be made available by Cable TV entities in the public domain.

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- Q14.** What according to you are the amendments, if any, to be made in the statutory rules/ executive orders for implementing the restrictions suggested by you to curb market dominance in Cable TV sector?
- R14.** The Cable Television Networks (Regulation) Act, 1995 needs to be appropriately amended in order to provide that;
- (i) prior approval of the Licensor shall be mandatory for merger of the licence. Merger of licences shall be restricted to the same service area.;
 - (ii) where the market share of the Resultant entity in the relevant market is not above 35% of the total subscriber base in a licensed service area, the appropriate regulatory authority may grant permission at its level. However, where, in either of these criteria, it exceeds 35% but is below 60%, the appropriate regulatory authority may decide the case after receipt of recommendations from the TRAI. Cases where the market share is above 60% shall not be considered.
- Q15.** Stakeholders may also provide their comments on any other issue relevant to the present consultation.
- R15.** None.

Kunal Raypal