Benefits of ‘New Framework’ for Small MSOs

Telecom Regulatory Authority of India

White Paper
on
The Telecommunication (Broadcasting and Cable) Services

Benefits of 'New Framework' for Small MSOs

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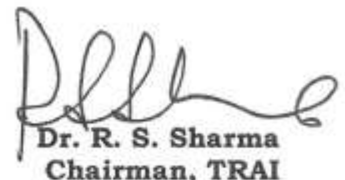
PREFACE

The Cable TV Industry in India begun as an unregulated service that expanded exponentially with the economic liberalization initiated in the country in 1990s. The Cable TV Act 1995 was promulgated to regulate the haphazard proliferation of cable television networks. Since coming under the regulatory ambit of Telecom Regulatory Authority of India (TRAI) in January 2004, the Broadcasting and Cable Services sector has further grown manifold and has developed into world's second largest Television viewing households with 197 million TV homes as in 2018.

TRAI has since 2004 issued various regulation to ensure orderly growth of the sector by introducing transparency and non-discrimination as the underlying principles. The technological developments and introduction of Digital Addressable System (DAS) since 2012 as per recommendations of TRAI enabled addressability, transparency, enhanced channel carrying capacity and provided technical feasibility to give choice to the consumers. It also resulted in advent of large multi-city, multi-state Multi-Systems Operators (MSOs). The broadcasters provided the Television channels to different DPOs (MSOs, DTH, HITS or IPTV operators) on the basis of mutual negotiations. The size of MSOs in the market mattered most, large operators were able to get better deals from the broadcasters, while small and medium MSOs were facing severe stress due to discriminatory pricing and discounting practices.

There were many other market asymmetries that prompted TRAI to carry-out a comprehensive regulatory overhaul and notify the new regulatory framework comprising of The Interconnection Regulations 2017, The Quality of Service Regulations 2017 and Tariff Order 2017. The new regulatory framework is based on transparency, non-discrimination, protection of consumer interest and enabling orderly growth of the sector as its core principles. The 'New Framework' promotes the consumer interest. Making the choices available to consumer and consumer paying only for what she/ he chooses to watch is the fulcrum of the new framework. This will encourage market forces to play and improve the quality of TV channels with better consumer viewing experience.

The purpose of this White paper is to identify the issues faced earlier by the small and medium MSOs and the benefits that accrue to them with the introduction of the 'New Framework'. I am sure that this white paper will give insight into the new regulatory framework and enable cable operators and small MSOs to take advantage of regulations to provide better services to consumers.



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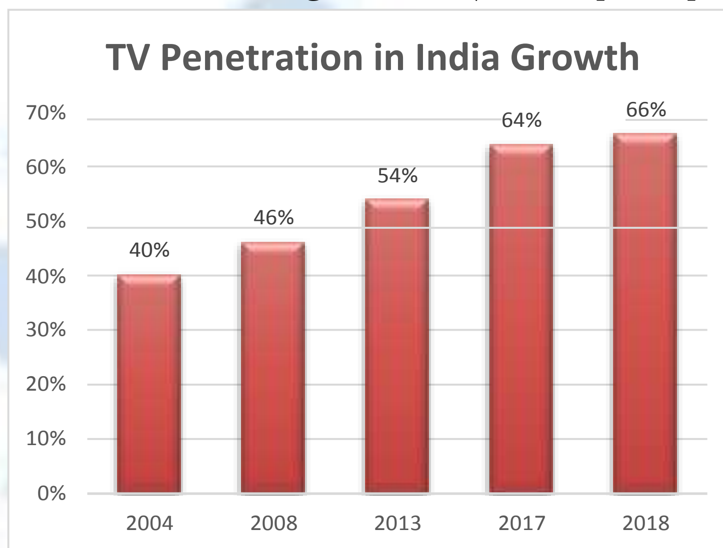
Executive Summary

The Cable TV Industry in India begun as an unregulated service that expanded exponentially with the launch of Star TV and Zee TV in 1992. As more and more local cable operators mushroomed across the country, a need arose for regulating the service. The Cable TV Act 1995 was promulgated to regulate the 'haphazard mushrooming of cable television networks. The industry has since developed into world's second largest Television viewing households globally with 836 million[1] TV viewing universe (See Graph: Top 10 countries in terms of viewership- Annexure 1). There has been a consistent growth in penetration of TV homes in India with 66% homes covered as in 2018 that translates to 197 million TV homes[1]. (Annexure -2: TV Penetration numbers in India). Not only the number of Television viewers are large, an average Indian viewer also spends an average time of three hours forty-six minutes daily ranking fifth among the top ten countries of the world in terms of average time spend (Annexure -3)



Since coming under the regulatory ambit of Telecom Regulatory Authority of India (TRAI) in January 2004, the Broadcasting and Cable Services sector has grown manifold. Presently India has close to 100 Million Cable TV homes with more than 1100 MSOs. (Annexure 3: Growth in number of pay Cable

[1] BARC Report, Broadcast India 2018 Survey , July 2018.

TV Subscribers). On the Television content side, there are 877 television channels being offered by close to 300 broadcasters.

TRAI has since 2004 issued various regulations to ensure orderly growth of the sector and to promote transparency and non-discrimination as the underlying principles. The reporting of verifiable television viewership data for proper revenue accounting has been a bone of contention among the broadcasters and Distribution Platform Owners (DPOs). This being the major issue, Ministry of Information and Broadcasting (MIB) amended the Cable Television Act 1995, in 2011 as per recommendations of TRAI to introduce Digital Addressable System (DAS) in a phase-wise manner. DAS implementation started in 2012 and has culminated in March 2017 across the country. The technological developments as a result of introduction of DAS enabled long distance transmission of television content, thereby promoting consolidation in the distribution. This resulted in advent of large multi-city, multi-state Multi-Systems Operators (MSOs). There were commercial reasons also behind the development of large MSO. The broadcasters provided the Television channels to different DPOs (MSOs, DTH, HITS or IPTV operators) on the basis of mutual negotiations. The size of MSOs in the market mattered most, and large operators were able to get better deals from the broadcasters.

There were many other market asymmetries that prompted TRAI to carry-out a comprehensive regulatory overhaul and notify the new regulatory framework comprising of The Interconnection Regulations 2017, The Quality of Service Regulations 2017 and Tariff Order 2017. The 'New Framework' promotes the consumer interest. Making the choices available to consumer and a consumer paying only for what she/ he chooses to watch is the fulcrum of the new framework. The framework prescribes non-discrimination and transparent interconnection based on published reference interconnect offer (RIO). Any negotiation *dehors* the RIO is forbidden.

The 'New Framework' by its design creates a level playing field among various players. The framework benefits the small and medium MSOs with provisions that prescribe non-discrimination, transparent terms and conditions, transparent distribution fee and standard discount structure based on quantifiable parameters. The comprehensive effect of 'New Framework' is very positive for small and medium MSOs. There are numerous clauses that address the issues being faced by such small MSOs in previous regime. The 'New Framework' promotes level playing field and provide equal opportunities to all types of stakeholders. It provides certainty of provisioning of TV channels within a prescribed time-frame, thereby ensuring viability of small and medium MSOs.

Chapter 1: Background

It was in the late seventies that one finds roots of Cable Television in India. Due to the limited offerings of state-owned broadcaster Doordarshan (DD), the Television viewers were looking for alternate entertainment options. With the advent of Video Cassette Player (VCP), enterprising individuals started offering Cable TV services in High rises in metro towns of Mumbai and Delhi, by providing video services by playing a VCP placed at their home and locally connecting the television homes by a cable supported by cable modem. The Cable Television business observed hyper-growth in 1990 with the demand for foreign channels during the Gulf war. The economic liberalisation in 1991 that simplified the process to procure and install satellite antenna further fuelled the growth.

The launch of Star TV and Zee TV in 1992 further fuelled the spread of cable TV. According to a study conducted by market research firm, Frank Small for Star TV, from a mere 412,000 cable TV homes in January 1992, the number of cable homes went up to 1.2 million by November 1992. By the end of 1994, M/s Frank Small estimated number of cable & satellite homes at 11.8 million out of a total of 32.4 million TV owning homes. Television viewership has grown substantially over the year (Annexure 2: Growth of Cable TV Viewers over last 10 years) with 197 million Television homes as of now. Important milestones of the journey of growth of the Television distribution industry are placed at Appendix 1.

The decision of the Rajasthan High Court[2] in Shiv Cable TV vs State of Rajasthan led to the passage of The Cable TV Act 1995. The object of the Act was to regulate the 'haphazard mushrooming of cable television networks.'

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[2] Shiv Cable TV System Ltd. Vs State of Rajasthan, Rajasthan High Court, May 1993, AIR 1993 RAJ197

The act laid down the "responsibilities and obligations in respect of the quality of service both technically as well content wise, regulate use of materials protected under the copyright law, restrict exhibition of uncertified films, and protection of subscribers from anti-national broadcasts from sources inimical to national interests".

The Cable TV Act 1995 since amended three times, brought about the development of this industry from unregulated to the regulated regime. Certain issues arose around the implementation of Conditional Access System (CAS). To deal with the situation and to regulate the sector, the Government issued notifications on 4th January 2004 to bring the broadcasting and cable services sector under the ambit of TRAI Act 1997. By exercising the powers conferred under proviso to Section 2(1)(k) of TRAI Act, the Central Government included all "Broadcasting Services and Cable Services" to be "Telecommunication Services" within the meaning of section 2(1)(k) of the Act vide Notification dated 9.1.2004 being Notification No. 39 S.O. 44[E][3]. Further vide S.O. 45 [E] the Central Government delineated additional recommendatory powers to TRAI for making recommendations on the terms and conditions at which the 'Addressable systems' shall be provided to customers and also the parameters for regulating maximum time of advertisements in pay channels as well as other channels. In addition of the powers to fix tariff under sub-section 11 (2) of the TRAI Act, SO 45 [E] also empowers TRAI to, '*specify standard norms for, and periodicity of, revision of rates of pay channels, including interim measures*.'

The TV Broadcasting services value chain comprises of broadcasters, Distribution Platform Operators (DPOs) and the end consumers. The DPOs downlink the TV channels provided by the broadcasters and after combining

[3] ***S.O 44(E)*** *"In exercise of the powers conferred by the proviso to clause (k) of Sub-Authority of India Act, 1997(24 of 1997), the Central Government hereby notifies the broadcasting services and cable services to be telecommunication service."*

these channels into a single feed, provide the same to the consumers, directly or indirectly (through Local Cable Operators termed as LCO). A typical schematic of Television Channel Distribution chain is placed at Appendix 2. The distributors are supported by content producers and hardware companies. As such, the content production industry is self-regulated. The Broadcasting (TV channels) and Distribution segments (Cable TV, DTH, IPTV, HITS) are regulated by the Ministry of Information & Broadcasting (MIB) and the TRAI.

Cable TV segment serves the major share of Televisions homes. There are about 1100 active MSOs operating all over India who have a combined market share of about 100 million subscribers of which the 20 leading MSOs have a share of 65% of the subscriber base. Further, there are about 100,000 LCOs operating in the country.

Since the advent of the regulatory regime in 2004, the technology and ecosystem of the industry evolved from analogue in the year 2004 to digital mode by March 2017. The quality of analogue transmission was poor, thereby providing inferior service to consumers. Various stakeholders including broadcasters were facing serious issues in analogue systems as the actual number of viewers could not be correctly ascertained in analogue system. To address these issues the Ministry of Information and Broadcasting, pursuant to the recommendation of TRAI, issued appropriate mandate for implementation of Digital Addressable System (DAS) in various phases. The digitization started in year 2012 and culminated in March 2017, leaving only a few areas of Tamil Nadu. Today, all subscribers of TV Channels receive signals in digital addressable mode.

During the implementation of the digitization process from 2012 to 2017, the Authority received various representations from several stakeholders including consumers on the inadequacies of the existing Interconnection

Regulations of 2012 and Tariff Order of 2010 to ensure that the complete benefits of digitization and addressability are reaped. At the same time, several disputes were being raised in the Hon'ble TDSAT with regard to non-transparent and discriminatory practices being adopted under the existing Regulations and Tariff Order when the same ought not to happen in an addressable framework. The Hon'ble TDSAT passed several judgments to deal with the situation and asked the Authority to frame a comprehensive Code to deal with the addressable framework.

The issues engendering review of previous regulations inter alia were: a) promoting consumers' interests by providing real and effective choice to select/ de-select a channel that she/he desires to watch and pay for; b) provisioning of channels by broadcasters to DPOs on a transparent and non-discriminatory manner; c) ensuring level playing field among the stakeholders; d) ensuring access of distribution networks to broadcasters on non-discriminatory terms; e) furthering orderly growth of the sector.

Multi Service Operators (MSOs) themselves were facing severe stress with many MSOs reporting competitive disadvantage due to discriminatory pricing and discounting strategies adapted by the Broadcasters. The small and medium MSOs suffered the most as it was very difficult for them to negotiate competitive deals from broadcasters. Though the regulatory framework provided for Reference Interconnect Offer (RIO) based pricing mechanism, both for a-la-carte channels and the bouquet offerings, the same was made infructuous by the broadcasters through negotiated deals. Discrimination was rampant in the negotiated deals. While one DPO was being offered 90% discount on channel prices, the other serving the same relevant market would be offered no discount or very small discount. The fixed fee deals that did not change the pay-out of MSO with change in number of subscribers impacted the competition most. Because any MSO who would be on fixed fee deals will offer all kind of incentives/ schemes to

acquire additional subscribers. Marginal cost of channels for acquiring new subscribers being nil, such MSOs with fixed fee deals harmed the market. In such scenario, the small and medium MSOs suffered the most as it was very difficult for them to negotiate competitive deals from broadcasters. There were many other inconsistencies in the market like tax avoidance and poor tax compliance, non-provisioning of consumer choice, discriminatory demands for carriage fee etc. This paper, however, we focus mainly on the issues concerning small and medium MSOs.

To address such issues and with an aim to balance to interests of Consumers and all types of service providers the Authority, after due consultations, in March 2017 notified: a) Telecommunication (Broadcasting and Cable Services) (Eighth) (Addressable Systems) Tariff Order, 2017; Telecommunication (Broadcasting and Cable Services) Interconnection (Addressable Systems) Regulations, 2017; and c) Standards of Quality of Service and Consumer Protection (Digital Addressable Systems) Regulations, 2017. On notification, a long cycle of legal challenges ensued that culminated[4] with the decision by Hon'ble Supreme Court in Star Vs Department of Industrial Policy and Promotion Civil Appeal no. 7326-7327 OF 2018 delivered on 30th October 2018. Meanwhile, the regulations were duly re-notified on 3rd July 2018 after the decision of Hon'ble High Court of Madras[5]. Effective since July 2018 for various preparatory activities, the regulations came into force on December 28, 2018.

The regulations termed together as the 'New Framework' address many asymmetries that had developed in the sector over the years. New Framework enables a transparent regime balancing the interest of various stakeholders. There are several measures to safeguard and enable small operators'

[4] Though there are/were other legal challenges in various High Courts, the referred decision of Hon'ble Supreme court addressed many serious legal issues raised by petitioners.
[5] WP no. 44126 and 4417 Star Vs DIPP.

especially small and medium size MSOs. Ensuing section(s) discuss the issues that were faced by small MSOs and the remedy provided-for in the 'New Framework' for those issues.

Chapter 2: Issues faced by Small Distribution Platform Owners

Return on Investment: The MSOs are required to invest heavily on Head-end equipment, CAS and SMS software and other hardware. The Set-top-boxes (STBs) contributes to a huge capital expenditure. Further, the MSOs hire network bandwidth from Telecom Service Providers or Internet Service Providers. There are large costs that can ascribed to Network and maintenance. However, the revenue stream was intertwined with the channel prices. As channel prices were not transparent and consumer charges were not directly linked with the price of the content/channel prices. The tariff structure was quite complex as each MSO was buying content from many broadcasters and many combinations of their channels/bouquets. To note, there are approximately 50 pay broadcasters providing more than 300 pay channels with quite-a-large number of combination of bouquets available. Due to non-clarity on revenue stream for the MSOs, growth was stifled, and quality of network also suffered. In many cases the lack of revenue realization did not allow timely upgradation of the equipment or the introduction of new services.

Discriminatory Channel Prices: In the previous regime, though Reference Interconnect Offer (RIO) based model was prescribed, there was huge variation in discounts offered by the broadcasters. Most of the deals were signed after mutual negotiations as fixed fee deals. The MSOs and DTH service providers are present in the same market. While an MSO is generally serving its customers through LCOs, DTH providers serves the customers directly. (Appendix-2 – Market Network Linkages and Structure). The structure of interconnect agreements/ deals was such that discounts upto

90 percent of the RIO price were offered. Thus, there were non-transparent and discriminatory practices for provisioning of the channels by Broadcasters (See BOX-1: Types of Deals). Large distributors (MSOs as well as DTH service providers) were able to get best possible discount owing to their large base and penetration-based discounts. Broadcasters discriminated between similarly placed DPOs. Mutual negotiations completely dehors the Reference Interconnect Offer (RIO) were entered which were not known to other similarly placed DPOs. For offering better deals broadcasters enforced other conditions such as minimum penetration guarantee for their TV channels. Differential input costs for MSOs meant distortion in market causing disadvantages to players who do not get such preferential deals. The situation for small MSOs was more critical as they did not have regulatory backing to question the methods of large broadcasters. Failure to enter into mutual negotiations forced DPOs to take channels on RIO rates. Many-a-times the broadcasters would resort to disconnection of the TV Channel feed of MSOs on flimsy grounds as the agreement would have many conditions like minimum penetration guarantee etc. This eventually meant that the DPO would not be able to

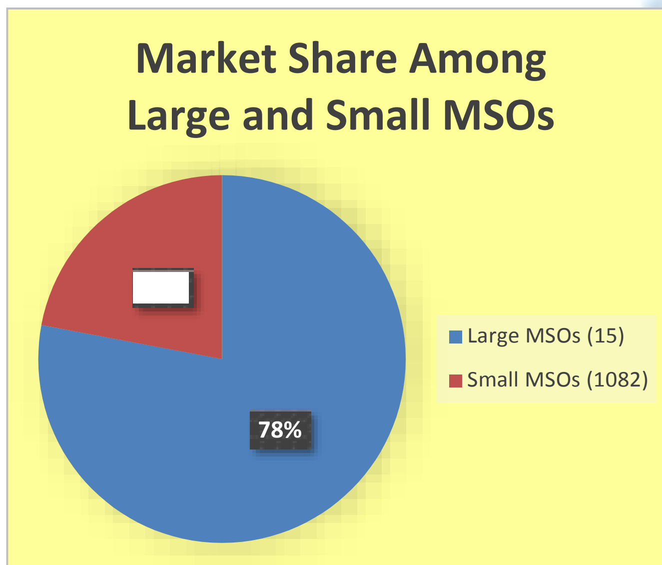
Box-1

TYPES OF NEGOTIATED DEALS

a. Fixed-fee Deals: All the channels of a broadcaster are taken at a lump-sum annual fee payable in monthly or quarterly instalments. No linkage with actual number of subscribers who chose to subscribe the channel(s) or bouquet(s)
b. Cost per subscriber (CPS) deals: In this type of deals a broadcaster provides all or a group of its channels at a fixed charge per subscriber. However, CPS is charged for 100% subscribers of the MSO irrespective of the fact, as to whether a channel or bouquet is subscribed or not.
c. RIO based deals: As per the rates notified by broadcasters in RIO. The rates in such deals were often unviable for an MSO being very high compared to CPS or

survive. Many small MSOs, therefore, had to join the large MSOs either through merger/ acquisition route or by joint venture arrangements.

Excessive Conditions: Discrimination in discounts was one factor; many other unreasonable conditions were imposed upon small and medium MSOs. The MSOs had to assure the broadcaster for placement of channel at a certain position and provide a logical channel number (LCN) number of choices. For MSOs it was impossible to fulfill all such demands and all broadcasters used to seek similar placements and LCN number or face non-provisioning of the channel. Small MSOs were the worst hit as they did not have ability to challenge the whims of broadcasters. The market data reflects the consequence, as only fifteen (15) MSOs (less than 1.5 % of total 1100 MSOs) control close to 78 % market share among Cable TV homes across the country. Such skewed market scenario reflects structural issues in the sector and points to existence of impediments to fair competition.



Restricting Area of Operation: The broadcasters controlled the DPOs by restraining their service area for which a channel was provided. Though, MIB provided an all India License to MSOs, they could not expand their network as broadcasters signed limited area deals. Thus though every MSO have permission from the Government, it was impossible for a DPO to expand its area of operations. There were reports that despite making investments,

MSOs are unable to carry out expansion due to delays in provisioning of channel by broadcasters.

Delay in Provisioning: The Interconnection Regulations, 2004 prescribed provisions relating to provisioning of signals of TV channels to seeker in a time bound manner. A service provider was enjoined to either provide the signals in the stipulated time of 60 days from the date of the request or share the reasons in writing for refusal with explicit details within 60 days from the date of request. In many cases, due to prolonged negotiations, the time period of 60 days was not adhered to by either party. The general alibi used to be that they wanted to satisfy themselves with the anti-piracy compliance of such new distributor. Many a times the broadcaster would subject the distributor for a long wait to conduct an audit. Further Different Broadcasters would conduct different audits thereby subjecting the MSO to multiple audits. This would entail undue strain on resources of MSO as getting audit performed meant engaging of manpower resources on audit again and again. It was possible for a broadcaster to delay the provisioning of signals under the garb of due-diligence or verification of equipment etc. There were complaints where an MSO did not get the agreement signed with the leading broadcasters even after following-up for one year. This also meant that different broadcasters would make their channels available at different point of times. Different audiences desire different specific channels. Even within one TV homes different family members may want different channels and unavailability of even one preferred channel will mean that the MSO will not be able to sell his connection. No consumer will subscribe to an operator who does not provide popular channels. TV Channel is a non-substitutable product. Small and medium MSOs could not, in many instances, survive for such long period without the availability of most popular channel.

Minimum Subscriptions Guarantee: The Broadcasters used to impose conditions on MSOs especially on small and medium MSOs to provide assurance / guarantee of subscription of a channel by a certain percentage of consumers. Under the DAS based system the choice of channel rests with a consumer and therefore such conditions put MSOs under strain to resort to forcefully providing certain channels to consumers. Under such scenario MSOs were subjected to consumer complaints and un-satisfaction.

No choice in Channel or Bouquet Selection: All the large broadcaster used to provide their channel only under a condition that the MSO provides all the channels. In such cases, MSOs were constrained to provide many non-popular channels also on their network, and in-turn to their customers. This issue was more severe in case of small and medium MSOs as they have limited head-end capacity. Taking all the channels of leading broadcasters on their network limited the choice. The non-availability of channel capacity was a big entry barrier for new broadcasters, thereby creating an oligopoly. Many MSOs were constrained to expand their head-end and install additional encoders, thereby incurring additional capital expenditure.

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Chapter 3: The 'New Framework' - enabling small & medium MSOs

Network Capacity Fee- An Assured Revenue Stream: An assured and dedicated revenue stream for MSOs was required to provide stimulating business environment. MSOs make significant investment to establish and maintain their networks. This investment has no linkages with the channel price or investments made by the broadcaster. Given the competitive pressures from competing technologies like DTH and OTT, MSOs also need to invest more to create newer revenue streams like providing cable broadband service. In addition, consumers are demanding value-added services like better interface, mobile-apps, online billing and bill payment facility, complaint redressal system, etc. In the earlier framework distributors of television channels did not have any fixed source of revenue. Their earnings depended on the revenue share earned by providing the pay channels of broadcasters. Quite a few MSOs struggled to get adequate revenue for maintenance and upgradation of their networks. Bulk of the revenue was being apportioned to pay for the content charges to broadcasters and as revenue share to LCOs. Even for bigger MSOs in DAS-4 areas, the situation was similar. Analysis of Average Revenue per user with respective share of Broadcaster, LCO and MSO is placed at Table -1. One can infer that in DAS-IV areas, even the leading MSOs were operating in loss.

The 'New Framework' through the tariff order provides for the Network Capacity Fee[6] (NCF), chargeable on per month basis. The tariff order prescribes[7] an upper ceiling of ₹ 130/- (One hundred and thirty) only for the first 100 (one hundred TV

[6] Sub-Clause 2 (1) (y) of The Telecommunication (Broadcasting And Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017 (No. 1 of 2017) [herein-after referred as Tariff Order 2017] defines, ' *"network capacity fee" means the amount, excluding taxes, payable by a subscriber to the distributor of television channels for distribution network capacity subscribed by that subscriber to receive the signals of subscribed television channels and it does not include subscription fee for pay channel or bouquet of pay channels, as the case may be*';

[7] Clause 4 of the Tariff Order 2017. Taxes as applicable are extra

Channels. Further, the Network Capacity Fee, per month, beyond initial 100 channels shall not exceed ₹ 20/- (Twenty) only in the slabs of 25 SD channels each. The NCF is nothing but the apportioned network cost per subscriber for the MSO and LCO. This is an assured revenue stream independent of the price of pay channel(s). Further this fee is independent of choice of certain channels by a subscriber.

The NCF as provided for, in the 'New Framework' will benefit small and medium MSOs. Not only that, the upper ceiling cap means, full freedom for business entities to offer most competitive prices by fixing any NCF below it.

RIO Based Non-discriminatory Channel Prices: The 'New Framework' provides for a transparent RIO based regime[8], whereby every broadcaster has to publish a transparent RIO. The said RIO must include and specify the genre and the type of the channel as 'Pay' or 'Free to Air'. In case of a pay channel the a-la-carte[9] price must be provided.

The 'New Framework' prescribes that the RIO must be in form of an agreement in ready to sign condition. An MSO can take a printout, sign the same and send it the broadcaster concerned. All conditions including those of the 'distribution fee'[10] and the discount[11] must be prescribed in the RIO. The Interconnection regulation further lays down that a minimum 'distribution fee[12]' @20% must be provided for.

[8] Regulation 7 of The Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017 (No. 1 of 2017) [Herein-after referred to as Interconnection Regulations 2017]
[9] Regulation 6 of Interconnection Regulations 2017 and Clause 3 of Tariff Order 2017.
[10] Sub-Regulation 2(1) (q) of Interconnection Regulations defines, ' *"distribution fee" means any fee payable by a broadcaster to a distributor of television channels for the purpose of distribution of pay channel or bouquet of pay channels, as the case may be, to subscribers and it does not include carriage fee*;
[11] Sub-regulation 7 (4) of the Interconnection Regulation
[12] While the regulation prescribes a minimum distribution fee of 20% of the cost of Pay Channel/ bouquet, the broadcaster may offer higher distribution fee provided the combined value of 'Distribution fee' and Discount remains with 35% of the price of pay channel/ bouquet.

Thus, every MSO is assured of earning distribution fee It is also explicit that there cannot be any arrangement between the service providers' *dehors* the RIO.

The transparent and non-discriminatory provisions as above as regards the provisioning of the channels facilitate all distributors, especially small and medium MSOs. They do not need to worry about long drawn negotiations with the broadcasters or face the uncertainties of not getting the channels. There is no doubt that this will pave the way for a certainty in the business environment and reduce the risks for small MSOs.

Transparent and Non-Discriminatory Terms: Sub-Regulation 7 (4) of the Interconnection Regulations 2017, vide the proviso specifies that the discount, if any, must be offered on transparent and non-discriminatory manner on the basis of measurable and computable parameters. Further, another proviso limits the maximum discount in conjunction with the 'distribution fee'. It provides that the 'distribution fee' and discount together cannot be more than 35 % of the channel or bouquet price. Non-discriminatory interconnection agreements are important for proliferation of broadcasting and cable services. Small operators are vulnerable to be discriminated in the interconnection agreements as their pay out to the broadcaster is comparatively small. There is no scope for imposing disparate and excessive conditions in agreement of any MSO.

'New Regulations' mandate the broadcasters to sign interconnection agreements strictly on the basis of RIO. The RIO must define the parameters for arriving at an agreement on acceptable terms and such parameters should be objective, measurable and computable.

Freedom to expand the territory of operation: In previous regime, the broadcasters held the key as regards provisioning of signals for additional territories of areas of operation of distributors. The 'New Framework' however

creates a balance in this equation. Sub-regulation 11 (2) empowers the distributor to send an advance notice for extending the area of operation with intension of starting the services in new territories. The regulation, however, provides a balance as the broadcaster has the power to raise written objections to such request within 30 days of receiving such notice. Thus, while balancing the interests of the stakeholders, the 'New Framework' provides for a time-bound mechanism for MSOs to expand their area and add new territories to their service area. This provision empowers small MSOs, especially those working on cooperative model with LCOs to expand easily and improve their profitability.

Time-Bound Provisioning of Signals: The 'New Framework' vide sub-regulation 3(2) provides for a total period of 60 days from the date of request for providing the signals of a channel or within 30 days of signing of the agreement. The said provision is further clarified and detailed in sub-regulation 10(8). It provides for 30 days' time period to complete the commercial discussions, if any, and sign the agreement. The explanation thereunder further provides that the provisioning of the signal must be done within 30 days of signing of the agreement. By breaking the sixty days period into two distinct parts, more clarity and certainty of timely provisioning is expected. The regulations vide sub-regulation 10(7) also provides the scope for an audit caused by the broadcaster for satisfying itself as regards the suitability of the network equipment and systems of the seekers of the signals. This audit provision has sufficient safeguard. If the addressable system of such distributor has been audited during the last one year by M/s. Broadcast Engineering Consultants India Limited, or any other auditor empaneled by the Authority, then the audit caused by broadcaster is not necessary. In such case the distributor is required to provide the certificate of such audit to the broadcaster.

These clauses in conjunction with each other bring assurance to the distributors that they will get the signals of desired channels in a time-bound manner. Effective since December 28, 2018 for the purpose of such agreements, there have been a

few cases, where distributors have obtained the desired television channels within the stipulated timelines. To make the process more transparent a task-force to develop and maintain an Interconnection Request Management System. The Interconnection Request Management system will be an online portal where every service provider will be registered. Once operational, the said portal will provide an end-to-end interaction and closure workflow for any new interconnect request. The regulatory provisions under the 'New Framework' coupled with proposed ICT based portal will help all MSOs especially small and medium MSOs.

No Scope for Imposing Subscription Guarantee: One of the major ills of previous regime was that broadcasters would impose discriminatory conditions during the negotiation stage. As small and medium MSOs do not have sufficient market power, they were subjected to target based discounts. The MSOs would require to achieve 100 % penetration levels for certain channels and bouquets to receive discounts on Channel Price. It was impossible for MSOs to survive in the market without availing such discounts. The situation therefore obligated small and medium MSOs to push such channels to all their subscribers irrespective of demand. The RIO based model in the 'New Framework' makes it possible that such discriminatory conditions cannot be imposed. As soon as similar conditions are imposed for availing of discounts, no service provider can be put to a competitive disadvantage. Therefore, the provisions adequately safeguard the interests of small and medium MSOs as no disadvantageous conditions can be imposed upon them.

Freedom to Select Any Channels or Any Bouquet from the RIO List: Small and medium MSOs have limited head-end capacity. Previously, it was normal that a broadcaster would link the discounts with carrying of all its channels. In the Indian market, few large broadcasters together own close to 250 television channels. These broadcasters also own most popular television channels. While there were cases, when in a certain market an MSO may desire to carry only a few of such top channels. However, the a-la-carte rates were so high compared to

bouquet prices that it was commercially unviable for an MSO to not carry such unwanted channels. This would entail either additional capital expenditure for additional channel capacity (at the head-end) or keep certain popular channels of smaller broadcasters out of the available choices.

The 'New Framework' provides flexibility to a distributor to select or de-select any channel from the RIO agreement. This flexibility will enable the MSOs to not carry unwanted channels on their platform. The provision provides such reasonable business freedom to MSOs to enable them to remain competitive.

Ease of Doing Business: In addition to the new framework, the authority also issued recommendations on 'Ease of Doing Business' in February 2018 with an objective to make business processes simpler for service providers in broadcasting sector in general and for the MSOs in particular. Once these recommendations are fully implemented, the MSO registration/ re-registration will be automated through an online portal improving end-to-end transparency. Such improvements will bring in certainty to the business prospects for small and medium MSOs.

Infrastructure Sharing: Presently the registration of MSOs prescribes an obligation for having an independent digital head-end of its own and provide digital addressable cable services from his head-end. The Head-end constitutes a large part of the capital cost of the MSOs, especially for small MSOs where the cost of the head end is between 60 to 75% of the total investment. Owing to the technological developments, multi-crypt transmission model for Digital Addressable Systems (DAS) is now used widely. The Authority keeping in view of the full implementation of DAS and to promote orderly growth of the sector made recommendations on 'Sharing of Infrastructure in Television Broadcasting Distribution Sector' on 29th March 2017. The recommendations provide for sharing

of Head-end[13] by different MSOs and sharing of the transport stream[14]. The recommendations once approved will reduce the costs of MSOs substantially. The sharing of infrastructure will not only save costs for the MSOs, it will also help small and medium MSOs in improving the quality of service. Presently small and medium MSOs are constrained to deploy head-ends that provide limited capacity and quality. The sharing of infrastructure will enable such MSOs to seek services from such large MSOs who have deployed better head-ends. This will improve the quality of their service thereby enhances the business prospects of small and medium MSOs.

TRAI

[13] Recommendation 2.22 a of the TRAI recommendations on 'Sharing of Infrastructure in Television Broadcasting Distribution Sector' dated 29th March 2017

[14] Recommendation 2.22 b of the TRAI recommendations on 'Sharing of Infrastructure in Television Broadcasting Distribution Sector' dated 29th March 2017

Chapter 4: Better Business Opportunities for LCOs to grow as MSOs:

The new framework enables small and medium MSOs with certainty of business scenario. It enhances the viability and business prospects of small and medium MSOs. Local Cable Operators, who are the face of cable TV industry, will benefit immensely from the new framework. As the new framework provides assured revenue stream in form of 'Network Capacity Fee' and assured availability of Television Channels. Further this assured availability of TV Channels is without any discrimination with respect to the price as-well-as the discounts (or the distribution fee). In the past, there were quite a few attempts by the Local Cable Operators to form their cooperative and become MSOs. M/s KCCL Kerala (See Box),

KCCL-A successful LCO Cooperative

Kerala Communicators Cable Limited (KCCL), a Public Limited Company, with a unique model in which cable operators have invested and participate in the management of the company. It is an initiative of the cable TV operators in Kerala under the umbrella of the Cable Operators Association (COA). COA is a conglomeration of more than 2500 independent cable networks functioning all over Kerala. Its objective is to develop cable TV industry in the state by expanding the networks, upgrading technology, finding new avenues of activity etc. on behalf of its members

More than 2500 Independent Cable Operators are shareholders of KCCL. The LCO's together have made a cumulative investment of Rs.500 Crore in the company in the form of equipment, networking, studios and other infrastructure.

KCCL has 3 Main Projects which are Kerala Vision Digital TV, Kerala Vision Broadband and Kerala Vision Channel Broadcasting. KCCL has emerged as the leading MSO in Kerala is among top 5 MSOs in the country. KCCL provides over 50 HD channels and is giving its consumers the experience of high-speed broadband through GPON. KCCL holds the unique distinction of having several operators who are 100% FTTH. With implementation of GPON, KCCL is fast moving towards achieving 100%distrbution using FTTH.

KCCL model has been to bill operators at the lowest possible rate recovering minimum cost. The unity of operators is a major factor of strength when it comes to facing any issue. The company makes modest profits, while ensuring economical operations by operators.

M/s LMO Digital Cable & Satellite Service Maharashtra and M/s Tamilnadu State Cable TV Operators Association are few such examples. However, not many such LCOs could venture into business given the high capital costs and uncertainties in getting the TV channels. The new framework in-conjunction with TRAI recommendations on Infrastructure sharing have brought down the business risks. With the MSOs registration also becoming time-bound there is a strong case for LCOs to come together and start operations as MSOs. Such LCO groupings have a definite business advantage as they can create local content subject to specific guidelines of MIB suited to the tastes and local needs of the consumers.

Not only this auger well for the LCOs it is a win-win situation for consumers, as they will have more choice in terms of local channels and value-added services.

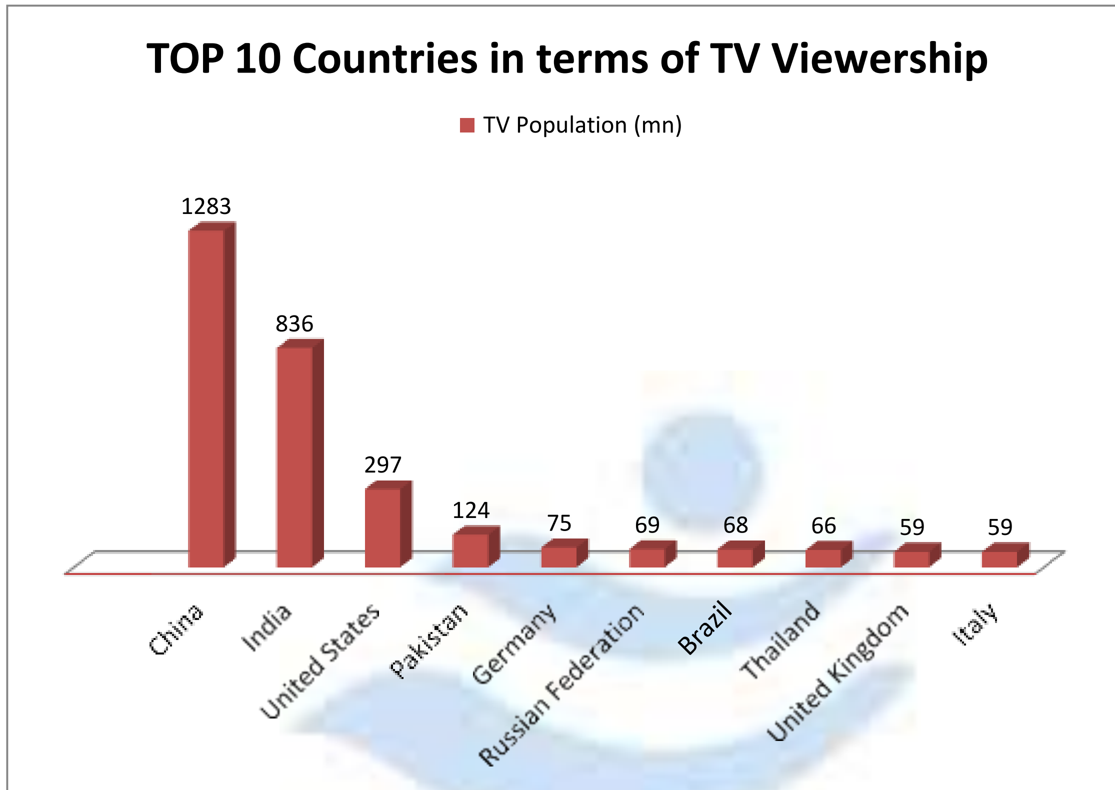
Chapter 5: Way Forward

The 'New Framework' empowers small and medium MSOs with certainty of getting fair deal from broadcasters while seeking television channels. Further the assured revenue stream through Network Capacity Fee will help MSOs in better revenue forecast and management. It is certain that the enabling provisions of 'New Framework' will bring new wave of entrepreneurial effort by small and medium MSOs. The reducing costs of head-end, other equipment and system software (CAs and Subscriber Management System) will encourage more and more LCO to come together and form LCO cooperatives and become MSOs themselves.

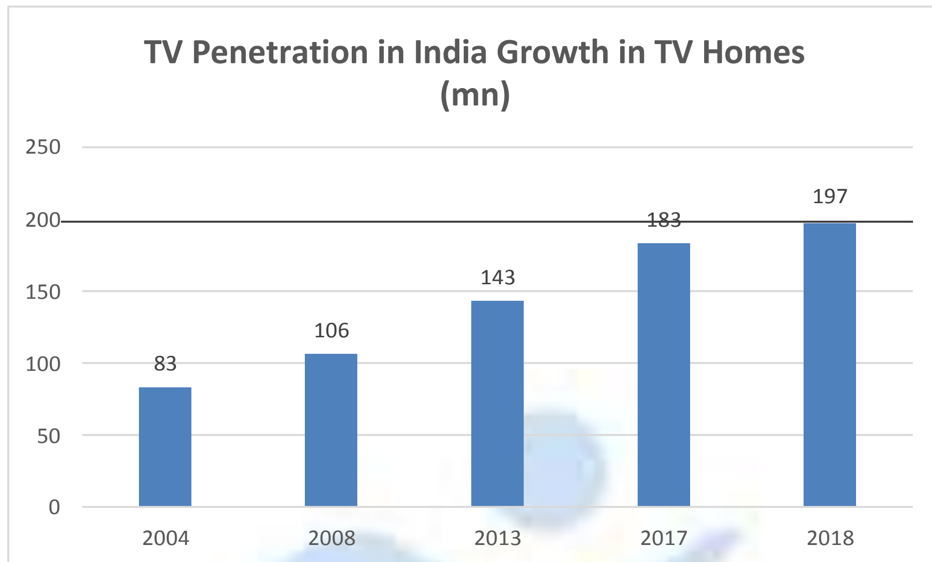
Within three months of the coming into effect of the 'New Framework', a spurt has been observed in new applications in MIB for registration as MSO. It is under stood that about 160 MSO applications have been received after the notification of new regulatory framework out of which 42 applications have been cleared by MIB and remaining are at various stages of process. Proliferation of local MSOs will mean that the consumers will get TV channels and entertainment suited to their local tastes.

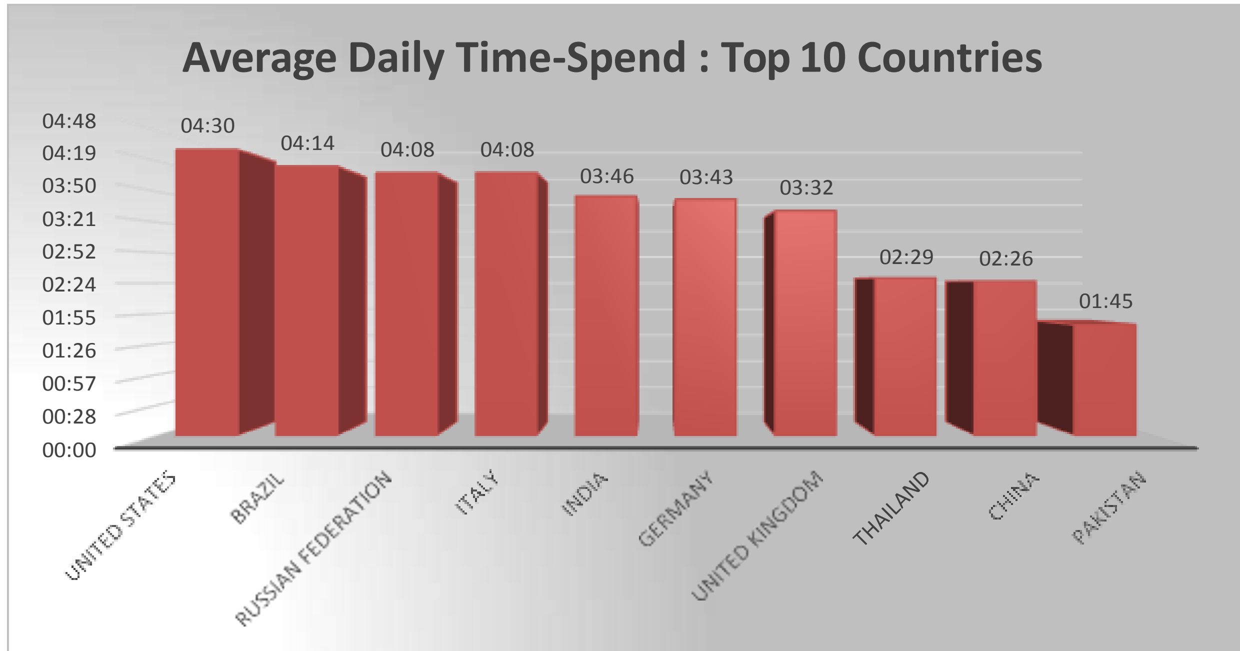
The new players will bring in more competition in the market. In addition to addition in variety and available choices, the consumer will get better value for their money. As we all know, competitive markets are more efficient and ensure better service for consumer at most reasonable market driven prices. Thus the new framework will usher in better entertainment, more choice and reasonable prices for Television services.

Annexure – I



Annexure – II

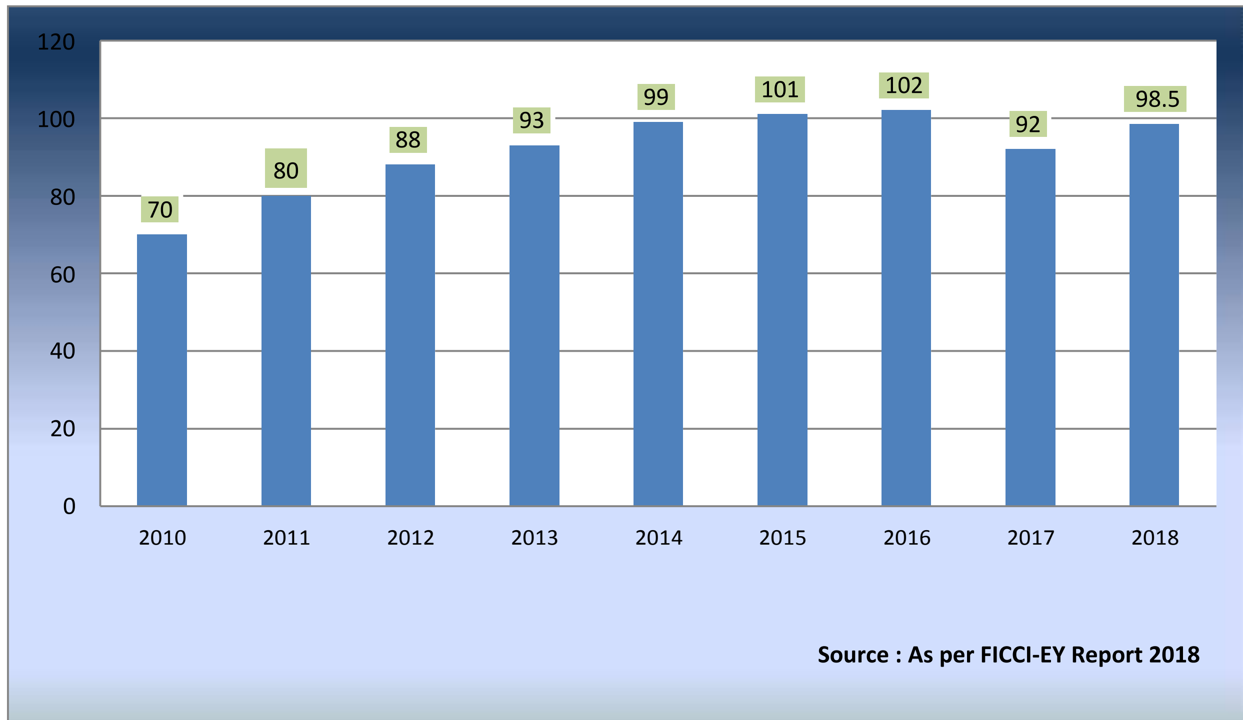



Average Daily Time-Spend : Top 10 Countries
04:48
04:19
03:50
03:21
02:52
02:24
01:55
01:26
00:57
00:28
00:00
04:30
04:14
04:08
04:08
03:46
03:43
03:32
02:29
02:26
01:45
UNITED STATES
BRAZIL
RUSSIAN FEDERATION
ITALY
INDIA
GERMANY
UNITED KINGDOM
THAILAND
CHINA
PAKISTAN

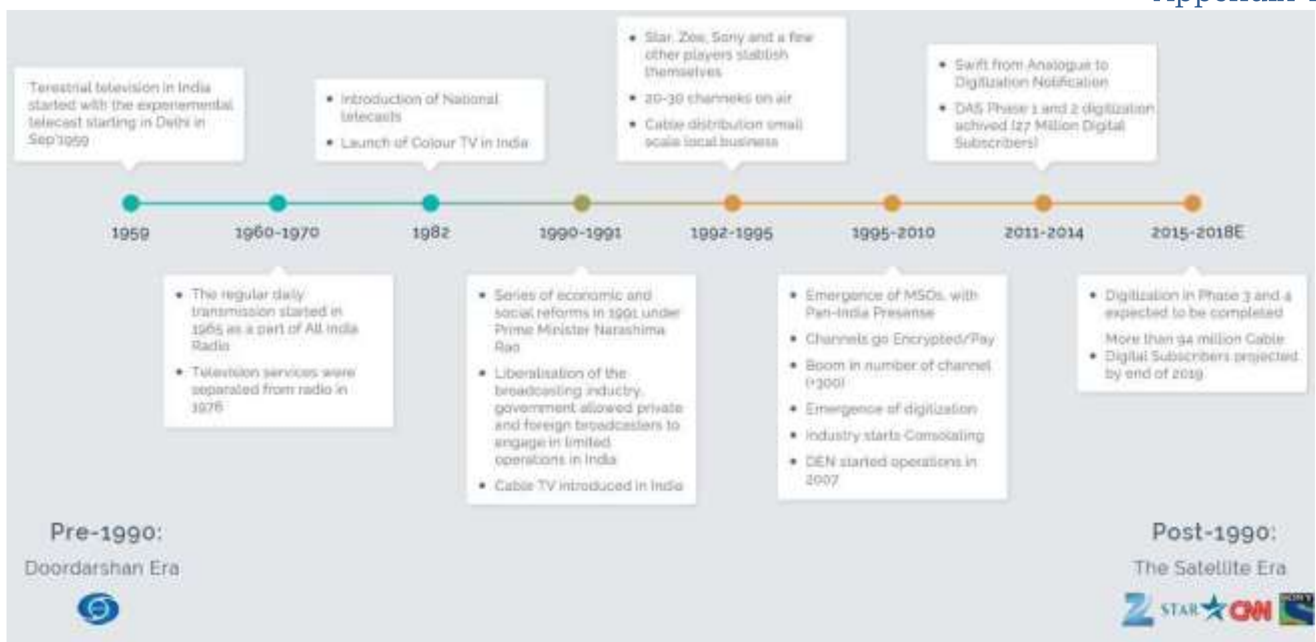
TRAI

Annexure – IV

Annual growth in number of pay Cable TV Subscribers (In Millions)

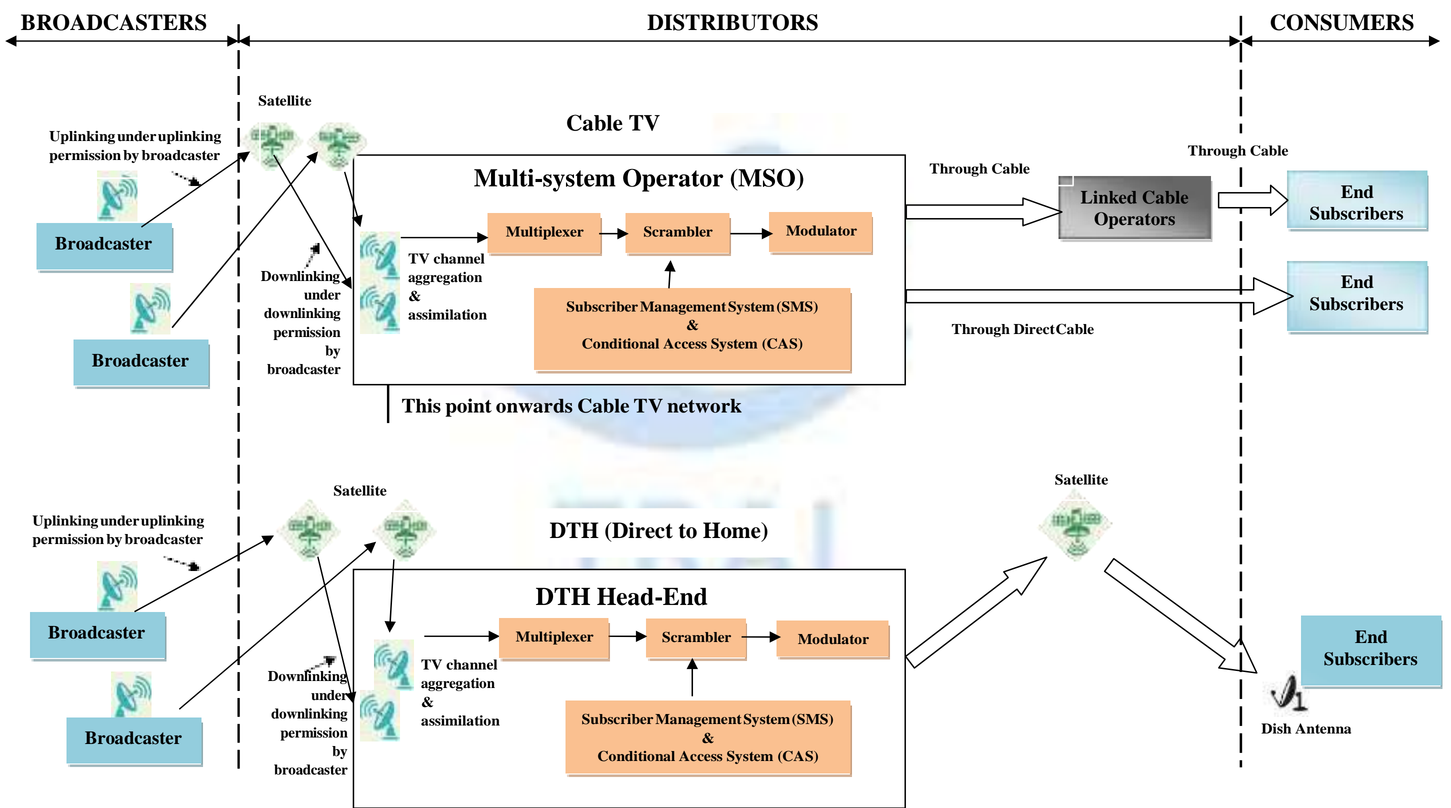


Appendix 1



Source – AIDCF Website

Television Distrbution : Market Structure and Stakeholders



Note: HITS (Head-end in the Sky) and IPTV (Internet Protocol Television) are two other modes of distribution of TV channels, which are not very popular at present.

Table-1

For the Month of Dec 18

S.N.	Name of the MSO	Sum of the revenue per customer per month payable to the Broadcaster	Average revenue per customer received from linked LCO to MSO (in Rs.)	Average subscriber revenue per month (ARPU)	To LCO
1	KCCL	20	40	200	160
2	Tamil Nadu Arasu Cable TV Corpn. Ltd.	44.5	77.7	167.69	89.99
3	Hathway Digital	62	80	200	120
4	Fastway	48.7	121	253	132
5	V.K. Digital Network Pvt. Ltd.	28.37	60	150	90
6	UCN Cable Network Pvt. Ltd.	0	55	137.5	82.5
6	Den Networks Ltd.	71.5	59.07	225	165.93
7	Siti Networks Ltd.	82	64.8	240.5	175.7
8	GTPL Hathway	67.28	64.05	205.45	141.4
9	IMCL	92.16	49.83	200	150.17
10	Asia Net	33	32.2	230	197.8