Digicable's views on Role of Distribution Agencies (Aggregators) in TV Channel Distribution

Preface

Digicable welcomes and highly appreciates the Regulator's initiative, effort and thought while bringing forth the new consultation paper on 6th August 2013 regarding the role of Distribution Agencies (Aggregators) in TV channel distribution. The consultation clearly reinforces our belief in the Hon'ble Regulator's consistent endeavor for bringing transparency into Television Broadcasting and Distribution sector.

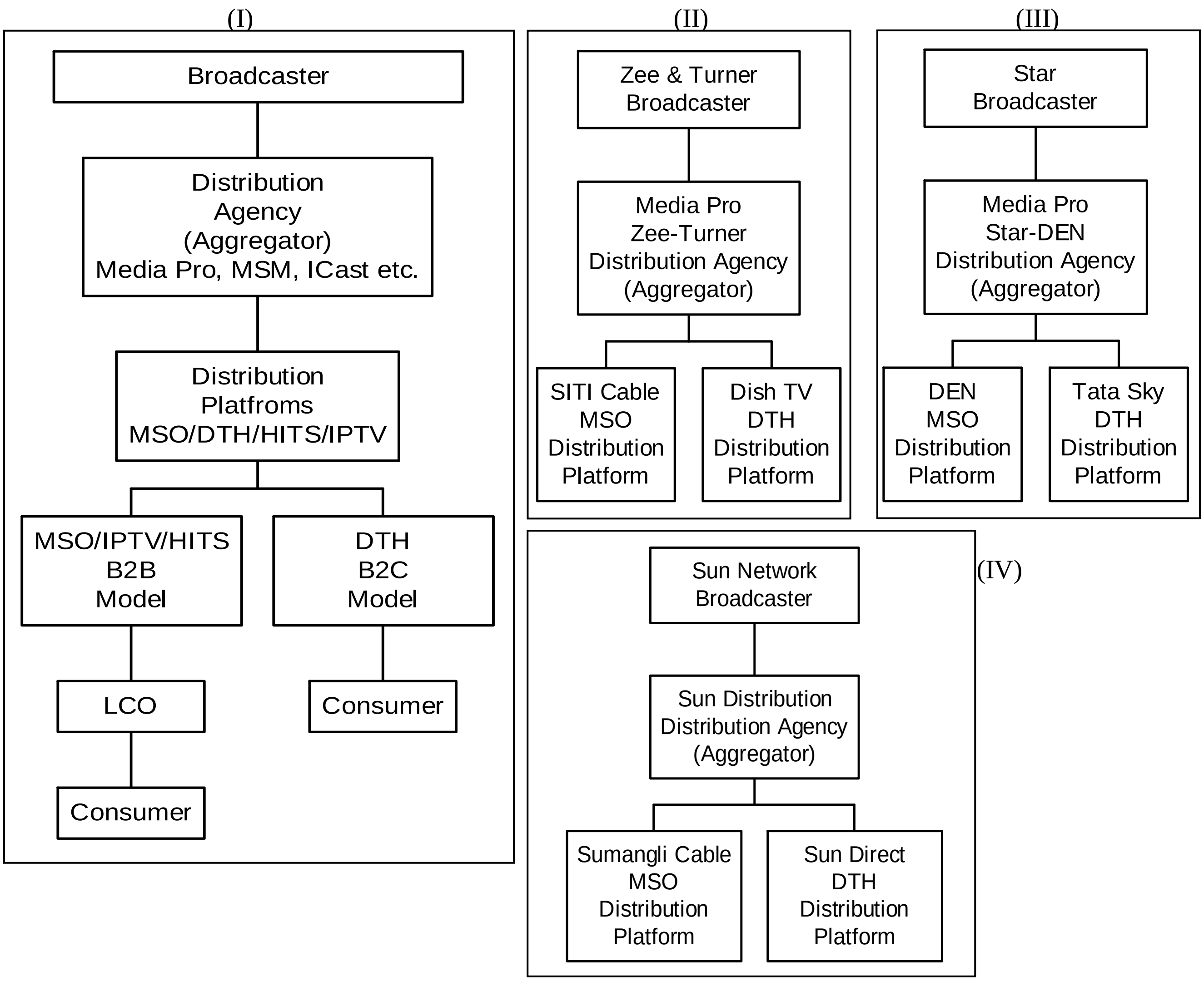
It would be pertinent to reiterate that the Distribution Agencies (Aggregators) are none other than off-springs of major broadcasters. The current major Distribution Agencies (Aggregators) cartels viz. Media Pro, India Cast and MSM-Discovery have today aggregated channels of multiple broadcasters and have created a situation where the MSOs and other Distribution Platforms are forced to subscribe **" Channel Bouquets"** leaving very little option for opting channels on a-la-carte basis, which is one of the key entitlement provided in DAS. This in effect defeats the fundamental purpose of DAS which is plurality of content and right to choose channels in the form of a-la-carte and/or bouquet at price points fitting the consumer's pocket.

In light of the current scenario, Digicable wholly advocates the Hon'ble Regulator's rationale for dismantling the cartel of Distribution Agencies (Aggregators) thereby establishing fair trade practices and a responsible ecosystem for the benefit of all the stakeholders including the consumer.

Role of Distribution Agencies (Aggregators) in the Broadcasting and Distribution value chain

To understand the relevance and importance of the amendments suggested by the Hon'ble regulator, we need to revisit the Broadcasting and Distribution value chain to essentially understand the emergence of Distribution Agencies (Aggregators) role in the value chain which is depicted in the Chart – (A) (I) below

Chart – (A)



The value chain shown in Chart – A (I) gets corrupted when some of the key broadcasters create Distribution Agency (Aggregator) which is not only owned but also managed and directed by them. Such agencies initiate anti-competitive practices by favoring the Distribution platforms viz. Cable TV/ DTH/HITS/IPTV etc. owned by the broadcaster which is detrimental to fair trade practice of the industry.

The issue further gets aggravated because of the fact that some of the very big Aggregators/Broadcasters are themselves, either directly or indirectly owners / managers of the last mile distribution platforms (Cable TV, DTH, HITS , IPTV).

It is therefore imperative to amend the Regulatory framework through this consultation in context of the relationships/integrations that permeates the ecosystem.

Considering the above facts, following are Digicable's views on the proposed roles and responsibilities that can be assigned by the broadcaster to their authorized distribution agencies for distribution of TV channels to various Distribution platform operators as proposed by TRAI in this consultation.

1) **The Broadcaster (and not the authorized distribution agency) shall publish its Reference Interconnect Offer (RIO) and enter into Interconnection**

Digicable's View

All Broadcasters should independently publish their own Reference Interconnect Offer (RIO) and enter into Interconnection agreement ***DIRECTLY*** *with the Distribution platforms viz. Cable TV/DTH/HITS/IPTV etc.*

The role of Distribution Agency (Aggregator) in publishing the RIO and entering the Interconnection agreement is specious and contentious for the following reasons

a) Broadcaster is the owner and source of the content in the value chain whereas the Distribution platforms viz. Cable TV/DTH/HITS/IPTV etc. which manages the SMS and CAS are responsible for further re-transmission of the same as prescribed in the Regulatory framework. Also, it is the broadcaster who is linked to the Distribution platform at the operational level i.e. activation and deactivation of signals etc. Therefore, it justifies to suggest / recommend that every broadcaster should independently sign interconnection agreements directly with the Distribution Platforms
b) It has been observed in several instances in past that
    I. Broadcasters have migrated from one Distribution Agency (Aggregator) to another as per their commercial requirements. E.g. NDTV was with MSM- Discovery and now has shifted to Media Pro. Neo Sports now part of MSM was distributed independently. Fox channels now part of Media Pro were distributed independently
    II. There have been occasions involving changes in alliances and restructuring of the Distribution Agencies (Aggregators) E.g. SUN 18 (a JV of Viacom 18 and Sun TV) changed to India Cast (a JV of Viacom, TV 18 and Disney-UTV)
    III. Such make and break scenarios gives rise to re-negotiations and an ambiguous business scenario leading to commercial disputes

2) **If a broadcaster appoints a person as its authorized distribution agent, it shall ensure that-**

   a) **The authorized distribution agent does not change the composition of the bouquet formed by the broadcaster while providing it to the distributors of TV channels;**

Digicable's View

1. A broadcaster being the owner and source of the content can create bouquet/s of his own set of channels only and should not bundle it's channels with that of other broadcasters
2. The authorized agent of the broadcaster cannot be considered de-facto broadcaster since he is only the representative of the broadcaster and hence has no right to change the composition of the bouquet formed by the broadcaster i.e. he cannot mix channels of other broadcasters

   b) **The authorized distribution agent does not bundle bouquet or channels of the broadcaster with the bouquet or channels of other broadcasters. In other words, in case the authorized distribution agency represents more than one broadcaster, they shall not link offerings of the broadcasters they represent.**

   c) **While acting as an authorized distribution agent, such person acts for, on behalf and in the name of the broadcaster.**

Digicable's View

1. The Distribution Agency (Aggregator) has be known to bundle the weaker channels with the popular ones and push it to the Distribution platform in such a way that exercising the a-la-carte option becomes not only difficult but unviable. As the Distribution platform is coerced to take all the channels, the cost implications are huge. Please see Annexure -1 and Annexure-2
2. *It is therefore pertinent to suggest that the role of Distribution Agency (Aggregator) should be completely done away with. Digicable further suggests that all Broadcasters should distribute their own channels independen*tly

Additional Comments of Digicable

1) Digicable is advocating a Retail tariff regime instead of the current Wholesale tariff regime, whether a-la-carte or bouquet for their (Broadcasters) own set of channels

2) In case of FTA channels, the broadcasters should not be allowed to bundle FTA with pay channels i.e. Channel bouquets will be purely Pay or FTA. Only FTA channels/Bouquets should be made available to the Distribution platforms without entailing/ forcing them to subscribe pay channels/bouquets

3) It is important to note that ***PRESENCE*** of a Distribution Agency (Aggregator) will
   a. Create inappropriate bundling of channels
   b. Increase the cost of channels
   c. Lead to cartelization
   d. Create unviable business propositions
   e. Promote anti-competitive practices (Please see Chart – (A) (II), (III), (IV))

4) Further, it is very important to note that after the successful implementation of DAS in Phase 1 & 2, the remaining two Phases of DAS which cover approximately 77 million Cable and Satellite households are serviced by around 6000 independent cable operators (ICOs). Most of these ICOs are not is a position to bargain with these existing / current cartel of Distribution Agencies (Aggregators) and it is feared that they by means of unviable commercial terms edge these ICO's out of the business and indirectly force these ICOs to concede their business to the Distribution Aggregators own affiliated MSO companies

Annexure -1

Consider the following are the 3 major Distribution Agencies (Aggregators) operating in the Broadcasting and Distribution value chain.

Sr.	Genre	Media Pro (Zee + Star + Others)			India Cast (Viacom 18 + Disney UTV + TV 18)			MSM Discovery (Sony + Discovery + Others)		
		Broadcaster	No. of Channels	Cost, p.m/Sub	Broadcaster	No. of Channels	Cost, p.m/Sub	Broadcaster	No. of Channels	Cost, p.m/Sub
1	Hindi GEC	Zee	3	39	Viacom 18	2	59	Sony	2	15
		Star	6	78	Disney UTV	2	8	Discovery	0	0
		Others	1	9	TV 18	0	0	Other	1	4
2	Hindi Movie	Zee	5	50	Viacom 18	0	0	Sony	1	8
		Star	3	45	Disney UTV	2	10	Discovery	0	0
		Others	0	0	TV 18	0	0	Other	0	0
3	English GEC	Zee	1	4	Viacom 18	1	7	Sony	1	7
		Star	2	22	Disney UTV	0	0	Discovery	0	0
		Others	2	13	TV 18	0	0	Other	0	0
4	English Movie	Zee	2	33	Viacom 18	0	0	Sony	1	5
		Star	3	44	Disney UTV	1	6	Discovery	0	0
		Others	3	12	TV 18	0	0	Other	2	37
5	Business News	Zee	1	2	Viacom 18	0	0	Sony	0	0
		Star	0	0	Disney UTV	0	0	Discovery	0	0
		Others	1	3	TV 18	3	46	Other	1	4
6	News	Zee	1	3	Viacom 18	2	5	Sony	0	0
		Star	0	0	Disney UTV	0	0	Discovery	0	0
		Others	3	8	TV 18	0	0	Other	4	9
7	Music	Zee	2	4	Viacom 18	2	5	Sony	1	3
		Star	0	0	Disney UTV	0	0	Discovery	0	0
		Others	1	3	TV 18	0	0	Other	0	0
8	Infotainment	Zee	1	42	Viacom 18	0	0	Sony	0	0
		Star	0	0	Disney UTV	0	0	Discovery	3	14
		Others	2	35	TV 18	2	42	Other	0	0
9	Kids	Zee	0	0	Viacom 18	3	14	Sony	1	0.2
		Star	2	9	Disney UTV	4	19	Discovery	1	6
		Others	3	17	TV 18	0	0	Other	0	0
10	Lifestyle	Zee	2	13	Viacom 18	0	0	Sony	0	0
		Star	0	0	Disney UTV	0	0	Discovery	2	8
		Others	3	13	TV 18	0	0	Other	0	0
11	Regional	Zee	16	57	Viacom 18	13	57	Sony	1	4
		Star	3	10	Disney UTV	0	0	Discovery	1	7
		Others	7	21	TV 18	0	0	Other	0	0
12	Religious	Zee	1	1	Viacom 18	0	0	Sony	0	0
		Star	0	0	Disney UTV	0	0	Discovery	0	0
		Others	0	0	TV 18	0	0	Other	0	0
13	Sports	Zee	0	0	Viacom 18	0	0	Sony	1	15
		Star	0	0	Disney UTV	0	0	Discovery	0	0
		Others	0	0	TV 18	0	0	Other	2	26
Total			**80**	**589**		**37**	**277**		**26**	**171**

Following inference can be drawn for the Distribution Agencies (Aggregators)

1. Only 3 major Distribution Agencies (Aggregators) control distribution of approximately 70-75% of the total pay channels aggregated from different broadcasters and of this only Media Pro, the biggest Distribution Agency (Aggregator), controls approximately 40% of the total pay channels
2. Distribution Agencies (Aggregators) attains enormous bargaining power against the distribution platforms and influences the competition in favor of the allied distribution platforms. For example: Media Pro is JV of Zee Group, Star-Den and others. Zee Group is into Broadcasting of 35 channels and its promoter owns both Direct-To-Home (Dish TV) and Cable TV (WWIL) distributions platforms. Star India is into Broadcasting of 19 channels and is allied to DEN, a Cable TV MSO. The Media Pro alliance of Zee, Star and other have created a behemoth content aggregator distributing 80 channels thereby creating an opportunity for their allied distribution platforms
3. The aggregation of large number channels has increased the cost for the subscriber. E.g. at ***wholesale level*** itself the cost of Media Pro channels is Rs.589/- per subscriber per month while the cost of India Cast and MSM is Rs.277/- and Rs.171/- respectively per subscriber per month

Annexure -2

Consider the following example of major Distribution Agencies (Aggregators) Media Pro, India Cast and MSM Discovery which procures channels from various broadcasters and re-bundles them as per their requirement

Table-A

Sr.	Distribution Agent (Aggregator)	No. of Driver Channels	Wholesale a-la-carte Cost	Wholesale Cost for Combination of Bouquet & A-la-carte	Names of Driver Channels
1	Media Pro	15	73.52	84.56	Zee TV, Star Plus, Zee Cinema, Star World, Star Movies, HBO, National Geographic, Cartoon Network, Pogo, NDTV Profit, Zee Marathi, Zee Bangla, Star Jalsha, Zee Telugu, NDTV Good Times
2	India Cast	14	57.82	63.76	Colors, Bindaas, UTV Movies, MTV, IBN7, CNN IBN, History TV18, CNBC TV18, CNBC Awaaz, Nick, Hungama, Disney Channel, ETV, ETV2
3	MSM	8	46.6	44.73	Sony TV, SAB, MAX, AXN, Discovery, Aaj Tak, ET Now, Times Now
Total		**37**	**178**	**193**	

Table -B

Aggregator's Wholesale Rate	Mark-up	Retail Content Cost Excl. Taxes	LCO Share@35%	MSO Share	MSO Revenue Share	Aggregator Revenue Share	LCO Revenue Share
178	100%	356	125	53	15%	50%	35%
178	150%	445	156	111	25%	40%	35%
178	200%	534	187	169	32%	33%	35%

Notes to the above table`

1. In Table - A, all the driver channels are never covered in one particular bouquet hence wholesale cost is derived from wholesale price of the largest bouquet containing some driver channels and a-la-carte cost of balance channels not contained in the bouquet
2. Since, the wholesale cost of 37 channels is less in case of pure a-la-carte the same has been considered for calculations in Table - B

Following are the observations from the above Tables A & B

1) To operate a Cable TV network, a minimum of 60 – 70 pay channels are required
2) The average retail monthly subscription per subscriber across India is Rs.150/- – Rs.175/-
3) However, as seen in Table – A, only 37 channels are available at a wholesale price of Rs.178/- per month per subscriber
4) Furthermore, as seen in Table - B, to get an equitable share in the subscription revenue the MSO has to mark-up the wholesale rate by 200% leading to a retail price of around Rs.650/-
5) An individual subscriber is most likely to opt for additional channels of his own choice including region specific channels thereby further inflating the cost

Therefore, there should be unbundling of bouquets of multiple broadcasters and aggregation of channels of different broadcasters should not be allowed.

In conclusion, the presence of Distribution Agencies (Aggregators) has significantly added to the content cost for the end consumer and it also leads to issues of Vertical Integration and therefore is detrimental to the fair and just conduct of the business.

Therefore, our recommendation is that all Broadcasters should have their own RIO, distribute their own set of channels directly to the Distribution platforms and should not be allowed to aggregate channels of other broadcasters.