

**KABLE FIRST INDIA PRIVATE LIMITED**

**Registered Office: No.1, 2<sup>nd</sup> floor, Indian Express Building, Queens Road, Bangalore –  
560001.**

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July 8, 2013

**“Without Prejudice”**

To:  
Telecom Regulatory Authority of India,  
MahanagarDoorsancharBhawan,  
Jawaharlal Nehru Marg,  
New Delhi- 110002.

**Kind Attention: Shri Rajkumar Upadhyay, Advisor (B & CS)**

**Subject:** Response to Telecom Regulatory Authority of India consultation paper dated June 3, 2013 on Monopoly/ Market Dominance in Cable TV Service.

Dear Sir,

We write with reference to the aforementioned Consultation Paper issued by TRAI on Monopoly/ Market Dominance in Cable TV Service.

There are two major reasons for MSO's acquiring unreasonable dominance in a territory

1. Some MSO's gain dominance through political support and do not allow competitive MSO business to develop. This will be adequately addressed by implementing TRAI recommendations dated September 12, 2008 and December 28, 2012 regarding disqualification of political bodies to do broadcasting / distribution business (refer para 2.25 of consultation paper dated February 15, 2013 on Issues relating to media ownership)

To the recommended definition of TRAI on disqualification of political bodies, we would suggest the following to be added "Persons who in the opinion of TRAI are subject to undue influence by a disqualified persons such as to act against public interest" (para 3.3 of consultation paper dated February 15, 2013 on Issues relating to media ownership)

2. Sometimes MSO's (and DTH operators) indulge in predatory pricing to gain dominance after obtaining discounted rate for content from allied broadcasters / aggregators. This would probably be addressed through TRAI recommendation on vertical integration – a subject on which a consultation paper has already been issued.

In the meanwhile however, to provide relief to independent MSO's against market dominance, TRAI should in line with ASCI recommendation monitor compliance and regulate the rate at which access to broadcasting service networks are provided so that delivery platform do not block competition from others ( para 2.23 of consultation paper dated February 15, 2013 on Issues relating to media ownership). All MSO's (allied or otherwise) should be given most favoured customer treatment by the broadcasters / aggregators. Deep price discrimination is, otherwise, destroying the very essence of 'must provide' clause.



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1. **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?**

Yes, but...

**We however disagree with TRAI's observation of separating the DTH market from cable industry platform on the ground of technical capacity.** The two platforms provide a near perfect substitute for each other and TRAI should be technology agnostic. The market dominance therefor should be computed with reference to combined cable TV and DTH market. The DTH firms should also be subject to the same regulation.

2. **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.**

Yes.

For dealing with monopoly and market dominance in Digital TV (both cable TV and DTH) services, the state should be considered as an unit of operation.

3. **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?**

**Please elaborate your response with justifications.**

To curb market dominance and monopolistic trends, restriction should be based on market share [para (ii) above]

4. **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.**

Not applicable

5. **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.**

The threshold value of market share beyond which MSO / DTH operator is not allowed to build market share on its own should be 60% at state level.



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6. **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.**

We agree with restrictions imposed on M & A in para 2.26. If the MSO / DTH operator is already in breach, they should not be allowed further M & A of other MSO or DTH operators in that state.

7. **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.**

We agree with the conditions mentioned in para 2.29.

8. **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.**

We agree with the restrictions imposed on control as given in para 2.31.

9. **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.**

Not applicable

10. **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.**

In our view existing MSO's / DTH operators should be allowed to continue their business through organic growth only. Appropriate restrictions on M & A should be in place.

11. **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.**

Yes, 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.



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While it is not the subject matter, we take this opportunity to state that the mandatory disclosures should also be put on Aggregators to curb the monopolistic practices by aggregators.

**12. What should be the periodicity of such disclosures?**

The period of such disclosures should be quarterly.

**13. Which of the disclosures made by the Cable TV entities should be made available in the public domain? Please elaborate your response with justifications.**

The following disclosures may be made available in public domain:

- a) Equity structure of the entity/company
- b) Shareholding pattern of the entity/company
- c) Interests of the entity /company in other entities/companies engaged in Cable TV distribution
- d) Interests of other entities/companies, having shareholding beyond a threshold in the Cable TV entity/company under consideration
- e) Details of areas of cable TV operation
- f) Details of revenue earned from services provided through cable TV network
- g) Details of key executives and Board of Directors of the entity/Company.
- h) Details of Subscribers served
- i) Agreement with the Aggregators.

Details pertaining to shareholding agreement and loan agreement should not be made available in public domain as it may contain sensitive information.

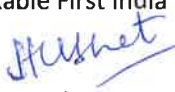
**14. What according to you are the amendments, if any, to be made in the statutory rules/ executive orders for implementing the restrictions suggested by you to curb market dominance in Cable TV sector?**

Not applicable

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

Please refer to our comments in the beginning.

Thanking you  
Yours Sincerely,  
For Kable First India Private Limited

  
Authorised Signatory

