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Please find below our response to specific questions in the consultation paper on Tariff Issues related to TV Services issued by TRAI on 29th January 2016.

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Q9. What should be the criteria for classifying an entity as a significant market power? Support your comments with justification.

Like many other media industries, commercial broadcasters operate in a dual product market. Broadcasters simultaneously compete in two markets: the market for subscribers and viewers, and in the market for advertising. This suggests there are at least two different sites to identify the market power of broadcasters.

Regarding the first site, the market power of a broadcaster needs to be measured in terms of a share of subscriber. This itself could involve two measures: the share of subscriber base cornered by a channel and the share of total subscription revenue gathered by a channel. Both these have become easier to calculate with widening digitalisation and addressability.

Equally, market power can be gauged in terms of viewership. However, unlike subscriber base and subscription revenues, which exist in absolute terms, the market share in viewership requires to be inferred--- from one of the many methods considered to be reliable and robust (BARC, TAM).

Since broadcasters also operate in the market for advertising---our second site--- their market power can also be measured in terms of their share of the total advertising revenue. However this needs to be inferred based on the advertising share garnered by a broadcaster in a Relevant Market. In the complex and multi-lingual broadcast landscape of India, there is a consensus that any conception of relevant market must be based on a combination of Channel-Genre and Channel-Language. Regulatory thinking in TRAI and judgments by the Competition Commission of India (CCI) have at various junctures affirmed the principle of product substitutability---defined by a combination of Genre & Language---being central to defining relevant market within a service area.

This principle of conceptualising a relevant market ought to be evoked while visualising ways to conceive significant market power in broadcasting. For, this suggests that all C&S channels operating in, say, the News genre in the Hindi language constitute one relevant market. Thus, the market power of a Hindi News channel (say HN_A) can be statistically identified in terms of their share of the total advertising revenue generated by all Hindi News channels ($HN_A / \sum HN_A \dots \dots HN_n$).

But we realise that often the said broadcaster/network of which channel HN_A is a part may also have another channel, in the same genre but in a different language---say an English News channel, EN_A . Alternatively, the broadcaster may have another channel in a different genre but in the same language---say a Hindi Entertainment channel, HE_A . In either case, this enables the said broadcaster/network to leverage the presence of its two channels across two relevant markets while negotiating with advertisers---such as by offering discounted Ad rates for advertising on both channels. Doing so enables such a broadcaster to have a significantly higher bargaining power with advertisers compared to that by a broadcaster having a channel present/operating in only one of the two relevant markets.

This also suggests that if the broadcaster/network has three channels, in three different relevant markets, its bargaining power in the market for advertisements will increase further. And in the event of any one of these three is a driver channel, the market power of the broadcaster/network is likely to get enhanced geometrically.

Moreover, attaining such market power gets incrementally enhanced in a scenario where two broadcasters come together. In other words, and more generally, two separate media outlets may seek to pool in their individual market power (within or across relevant markets where each of their individual titles operate) in the wider advertising market by jointly dealing with advertisers. This avenue to attain significant market power has been a common and commonly observed practice in the newspaper sector.

Having devised a rationale for understanding market power and a robust way of measuring it---at the levels of channels or broadcasters---the next challenge is to think of a threshold of "significance". Significant market power attracts regulatory intervention only when there is a clearly abuse of, or a demonstrable risk from, such a market presence---be it in the subscriber market, advertiser market or both in concert. This implies that devising *ex ante* norms, including/and/or statutory thresholds, for "significant" market power may not be administratively relevant, legally tenable and/or statistically feasible.

However, precisely for this reason, it becomes highly pertinent from a public interest perspective to devise clear and consistent empirical norms for measuring market power, in both subscriber and advertising markets. Doing so will aid the process of pinpointing a precise basis of *ex post* regulatory intervention---as and when abuse and/or risk is demonstrated either by the regulator or by competing broadcasters. In fact, a clear and consensual enumeration of market power is beneficial for broadcasters themselves, as it will contribute to reducing the burden arising from repeated disputes and litigation.

Q. 28. Do you agree that separation of FTA and pay channels bouquets will provide more flexibility in selection of channels to subscriber and will be more user friendly? Justify your comments.

Based on an extensive quantitative survey and a qualitative study conducted in two cities under different phases of digitalisation, it appears that the separation of FTA and Pay channel bouquets has not resulted in any effective choice for the subscriber¹.

It was expected that addressability through digitalisation would allow the subscriber to pay only for those specific channels they wish to watch. However the bundling system adopted in the current distribution regime does not allow for any a-la-carte option for the subscriber in both Phase 1 and Phase 2 cities as reflected in the survey. It also highlighted that the maximum number of channels watched by a household has always been between 10 to 19 channels in both, the analogue system with less than 100 channels and the digital system with over 500 channels. However, due to the lack of a-la-carte option, the subscriber who was expected to pay only for those channels watched, ends up paying for an entire package of more than 150 channels. This was explicitly stated by one of the respondents of an in-depth interview conducted with a household in Patna.

Q: Matlab kul mila kar 20-25 channel agar hon, jo aaplog ke pasand ke hon, to kam chal jayega aapka, 500 channel lene ki awashyakta hi nahi hai.

Patna HH#120000²: Koi zarurat nahin hai, hamlog ko to bas news se matlab hai aur bachon sab ko entertainment chahiye.

Q: Aaplogon ne kabhi pucha nahin ki hamlogon ko kewal 22 channel hi de do aur iska rate batao?

Patna HH#120000: nahi, package lena hi padega.

The a-la-carte option exists only as an add on to the various packages offered by the service provider. However the prices of individual channels are prohibitively high, thus effectively negating any choice for the subscriber, as has been rightly pointed out in the consultation paper. Even in an important Tier 1 city like Delhi, a survey of over 1000 C&S TV households in the South-East District revealed only 6.6 percent households exercised the choice of the a-la-carte option. The few people who did select the option



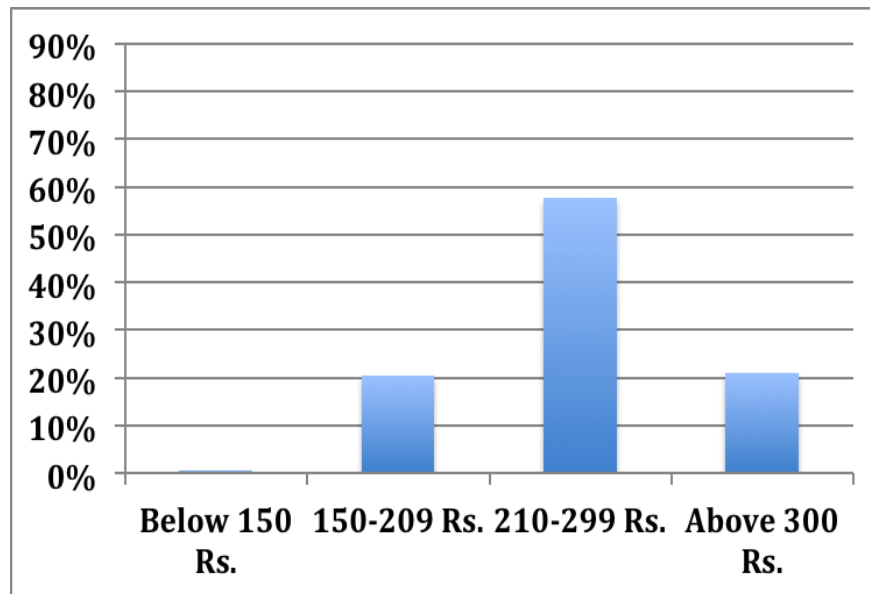
¹ The field study was conducted in early 2015 as part of the project, *Tracking Access under Digitalization*, by the Centre for Culture, Media and Governance, Jamia Millia Islamia, New Delhi. It included a quantitative survey of over 1000 households each in South East Delhi and in Patna Municipal Corporation; followed by in-depth interviews with over 50 households, selected from among these 1000, in each of the two cities. The sample size of 1000 households in both the cities is far bigger than any audience survey conducted in the country; TAM surveys around 200 households whereas BARC surveys around 150 households in the entire state of Bihar.

² Patna HHI No. 120000 (2015, March 22), Household Interview, Khash Mahal Road, Patna.

decided to discontinue the services because of the high prices. A respondent in Patna stated that he had to shift from a package priced at Rs.220 to another package worth Rs.330 as he wanted to watch cricket matches during the world cup which was not available in his earlier package³.

In the absence of a functional a-la-carte options, there are a number of bundles---commonly referred to as “packages”---on offer in Phase 1 and Phase 2 cities. The *mid-range packages*, typically priced between Rs.200 and Rs.300, are most popular amongst subscribers, across cities.

Average Monthly Subscription Prices paid by Households in SE Delhi (n=1010)



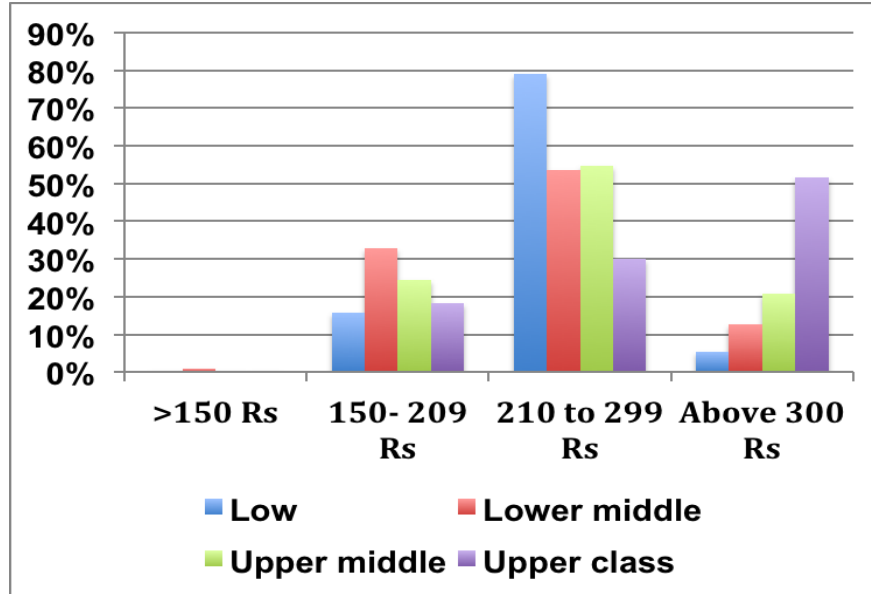
Significantly, the *basic service tier*, which is the entry level package, mandated by TRAI to be priced at Rs.100 plus taxes and to consist of FTA channels, is the least popular amongst subscribers, as reflected in the graph above. This is because it usually does not consist of popular channels preferred by subscribers. According to the original TRAI mandate, subscribers should be allowed to select the FTA channels they would want in the basic service tier. The compliance of this clause is suspect since most of the subscribers were unaware of such an option.

The survey pointed out that over 90 percent of the channels preferred by the subscribers in both the cities are pay channels which are not part of the basic service tier. Thus in the absence of the popular pay channels the entry level package will continue to be unpopular amongst the subscribers. This effectively allows for no choice for the subscriber who wishes to watch popular content at low prices. Consequently the

³ Patna HHI No. 38 (2015, April 17), Household Interview, Gandhi Maidan, Patna.

subscribers of both upper and lower Socio-Economic Categories⁴ (SECs) pay the same mid-range or high prices to access television.

Average Monthly Subscription Prices across SECs in SE Delhi (n=1010)



Thus from the evidence provided, it is clear that the mere availability of different packages devised by service providers is insufficient to achieve the policy objective of enhancing choice for subscribers in their selection of channels.

⁴ The Socio Economic Categorization of the sample was calculated using five parameters namely education and occupation of the chief wage earner, monthly household income, ownership of common durables, ownership of media assets