STREAMING PLATFORMS AND THE CALL FOR A LEVEL PLAYING FIELD

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Esya Centre
B-40 First Floor
Soami Nagar South,
New Delhi - 110017, India
contact@esyacentre.org
www.esyacentre.org

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Author: Megha Bahree is a Fellow at the Esya Centre.

Cover Illustration: Taniya O'Connor

Layout & Design: Khalid Jaleel

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INTRODUCTION

There's been a loud chorus of calls in the last four years to regulate streaming platforms in the same way as traditional TV players. The message is that these streaming platforms are free to broadcast what content they like and pay no fees either, unlike the traditional players.

The matter is so contentious that in October 2021 the Telecom Regulatory Authority of India (TRAI), which regulates all broadcasters that have a licence from the Ministry of Information and Broadcasting, issued a consultation paper[1] on market structure/ competition in cable TV services.

Although streaming platforms don't come under TRAI, as they don't need a licence to operate, many comments and responses from TV distributors have asked the government to change the rules governing streaming platforms to bring them under the purview of TRAI, as that would put all players on a so-called level playing field.

OUR GOAL IN THIS PAPER IS TO UNDERSTAND WHAT THE CLASH BETWEEN TRADITIONAL TV DISTRIBUTORS AND STREAMING PLATFORMS IS REALLY ABOUT, AND IF TIGHTER REGULATION IS INDEED THE ANSWER TO THE PROBLEM OR IF A SOLUTION LIES ELSEWHERE.

Our goal in this paper is to understand what the clash between traditional TV distributors and streaming platforms is really about, and if tighter regulation is indeed the answer to the problem or if a solution lies elsewhere.

We spoke to some of the bigger firms in the industry and also rely on the stakeholder feedback provided to TRAI for its consultation paper. Our paper is not funded by any of the firms in the ecosystem.

THE LANDSCAPE

In India there are multiple stakeholders in the industry:

- Broadcasters – These are the firms that produce or acquire content like news, music, sports, shows, and format it and uplink it to satellite. They include companies like Sony, Zee, Star TV, Sun TV and others. The channels are delivered to viewers through intermediaries known as distributors.
- Distribution Platform Operators/TV Distributors – While broadcasters source and upload the content to the satellites, it is only the distribution platform operators (DPOs)—platforms that have a licence from the Ministry of Information and Broadcasting—that are authorised to downlink and distribute the content to viewers. India has several types of TV distributors:
- Direct to Home (DTH) operators like Tata Play, Free Dish
- IPTV operators like Bharti Airtel, Reliance Communications
- HITS operators
- Multiple system operators (MSO) like Den Satellite Pvt Ltd, Hathway Cable & Datacom Ltd, SITI Networks
- Local cable operators (LCOs)
- Streaming platforms – Platforms like Disney + Hotstar, Netflix, Amazon Prime, ZEE5 offer content for free, or on subscription or a combination of the two. They don't need a license to operate.

(See Annexure for Value Chain of Television and Streaming Services)

WINDS OF CHANGE

Last year, India's media and entertainment sector clocked revenues of an estimated $26 billion to $28 billion, as per a December report[2] by the Boston Consulting Group and the industry body the Confederation of Indian Industry. Of this, 33-35 percent of the revenue was brought in by the television industry, down slightly from 37 percent a year earlier, while 7-9 percent was brought in by the streaming platforms, up from 6 percent the previous year.

While these changes are not huge and the gap between the two remains substantial, it's enough to set off alarm bells for the incumbent players, especially because until as recently as 2015 television was bringing in 46 percent of revenue while streaming platforms earned a negligible 1 percent.

Moreover, if the report's projections are anything to go by, television's piece of the revenue pie is expected to shrink to 22-24 percent by the end of the decade, even as the share of streaming platforms rises over the same period, eventually bringing the two at par.

Distributors "are scared of cord-cutting," an executive with a streaming platform tells Esya, referring to the practice of consumers cutting the so-called cord of cable TV and replacing their subscriptions with streaming platforms, a trend that took place over a decade ago in markets like the United States.

There are early signs of that already. Per the BCG-CII report, India had 111 million homes with cable TV in 2018. By 2021, that number is estimated to have dropped to 102 million, even as homes with Free Dish went up from 24 million to 42 million and those with DTH subscribers went up from 64 million to 73 million.

YEAR	MARKET SIZE (IN $ BN)			MARKET SHARE (%)	
	M&E Industry	Television	OTT	Television	OTT
2015	19	8.74	0.19	46	1
2019	26	9.62	1.04	37	4
2020	24	8.88	1.44	37	6
2021E	27	9.18	2.16	34	8
2030E	57.5	13.2	13.2	23	8

Table 1: OTT and Television Growth Trends (2015-2023). *Source: BCG-CII (2021)*

THE PAIN POINTS

One of the main areas of complaint that is raised repeatedly is the entry fee and annual licence fees that the TV distributors have to dish out while the streaming players don't, as the chart below shows:

METRIC	DTH	MSO	HITS	IPTV	LCO	OTT
Entry Fee	INR 10 Cr.	INR 1 Lac.	INR 10 Cr.	NIL	INR 500	Nil
Annual Licence Fee	8% of AGR	NIL	NIL	8% of AGR		Nil

Table 2: Licence and Entry Fees for Traditional and Streaming Services

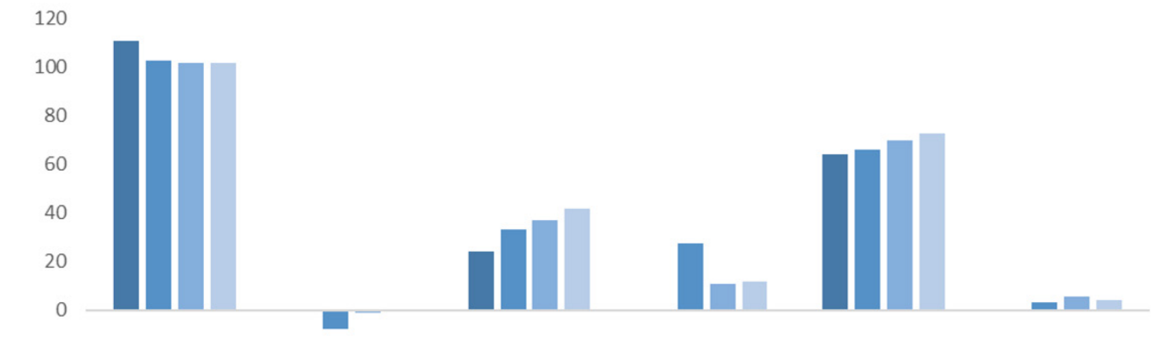
Source: Esya Centre (2021). Note: In table X, AGR stands for Adjusted Gross Revenues

Distributors also complain that they have to pay the broadcasters/content owners to get their content to show it, unlike streaming platforms. What they don't say is that they also get a portion of the revenue earned by broadcasters from subscriptions. Similarly, streaming platforms also have to make some payment to broadcasters, even if the two organisations are owned by the same parent company, as is the case with Disney and Hotstar, Sony TV and SonyLiv, Viacom18, Zee and Zee5 and Voot and Sun TV and SunNxt. But this is a point that distributors tend to ignore.

Another complaint is that if the content of a paid channel is available on DD Free Dish, the only free-to-air DTH provider, viewers can watch it for free or by paying a nominal amount.

What that means, a former senior executive at an MSO tells Esya, is that businesses like theirs are getting squeezed both at the high end of the payment band as the number of subscribers starts to peter out, and at the lower end of the band as viewers who can't afford to pay for a TV subscription are drifting toward Free Dish or even streaming platforms that offer access to some of their content for free.

What distributors don't mention is that they have several other revenue streams. For instance, apart from a portion of the subscriber revenue, they also earn a landing fee (the amount a broadcaster pays to ensure that its channel is the one a viewer will see first when they switch on the TV), a location fee (the amount paid to secure a channel number), a carriage fee (the amount paid by a broadcaster if it doesn't get the minimum number of subscribers agreed upon with the distributor) and a network capacity fee, among others. It is also worth noting that Free to Air (FTA) channels are not "free" for the end-subscribers, who have to pay DPOs their network capacity fee, a charge levied by operators.



	Cable		Free Dish		DTH (paid)	
	No. of HH (in Mil)	AGR (%)	No. of HH (in Mil)	AGR (%)	No. of HH (in Mil)	AGR (%)
2018	111		24		64	
2019	103	-7.77	33	27.3	66	3.03
2020	102	-0.98	37	10.8	70	5.71
2021E	102	0	42	11.9	73	4.11

Table 3: Stagnant Growth of Television in India (2018-2021)

Source: BCG-CII (2021). Note: In table X, AGR stands for Annual Growth Rate which indicates the year-on-year growth

That said, cord-cutting is a real fear among traditional players. These changes in viewer habits have been accompanied by a government-enforced digitalisation of the sector under which all broadcasters, MSOs and LCOs were directed in the past decade to switch from analogue to digital transmissions. The move forced transparency on the actual number of cable connections, and the associated revenue, ultimately bringing those earnings under the tax net.

WHILE SOME TV CONTENT NEEDS APPROVAL BY THE CENSORS BEFORE IT CAN BE BROADCAST, THERE IS NO SUCH REQUIREMENT FOR CONTENT MEANT TO BE STREAMED.

Another grouse is that while some TV content needs approval by the censors before it can be broadcast, there is no such requirement for content meant to be streamed.

"That's not a level playing field," says this executive. "In our sector there's a tight regulation on pricing, carriage and everything is controlled, including certain content that has to be passed by censors... If you don't control OTT (streaming platforms), pricing etc will all be in forbearance," he warns.

That isn't quite the case. The intermediary guidelines[3] issued by the Indian government in February last year contain a range of criteria for streaming companies to consider before publication, and advocate the use of "due caution and discretion" when it comes to content that may affect the sovereignty and integrity of India, is detrimental to India's friendly relations with foreign countries, or is likely to incite violence.

The guidelines also dedicate an entire section to the classification of content, including for movies, entertainment programs and web-based shows. The guidelines cover the gamut of nudity, sex, violence, drugs, alcohol, caste, gender, religion, and others. And while the rules have been challenged in court and haven't yet come into force, companies are already choosing the cautious route.[4]

Streaming platforms in India have also been at the receiving end of threats of boycott, filing of criminal complaints and public interest litigations, and have been forced to cut scenes and issue apologies by a range of constituents including political parties and religious leaders for offending one or other sentiment. Some of the shows that invited such allegations include the crime thriller Sacred Games and Bombay Begums,[5] a drama about five women living in Bombay, both on Netflix, and the political thriller Tandav on Amazon Prime.

HOW IT'S PLAYING OUT

So how are distributors preparing for any potential loss of business and clientele? So far they seem to be mostly trying to clip the wings of the streaming platforms rather than by focusing on how to loosen the chains on their own sector to spur growth.

UNTIL AND UNLESS OTT PLATFORMS ARE REGULATED, THE PRICE OF BROADCASTING CONTENT SHOULD REMAIN THE SAME ON BOTH PLATFORMS.

For instance, in the stakeholder comments invited by TRAI for its consultation paper on market structure in cable TV services, five cable operators' associations and 29 LCOs and MSOs said that TRAI should bring OTT, or video streaming platforms, under a strict regulation in accordance with the benchmark of Indian socio-cultural demands and heritage, and the price of OTT content should be at par with cable TV platforms. Until and unless OTT platforms are regulated, the price of broadcasting content should remain the same on both platforms.

Similarly, in its comments Hathway said that the market dominance of MSOs doesn't really exist, and that the streaming platforms "should definitely" be accounted for while studying market dominance.

Tata Play complained that "the regulations are asymmetrical" as DTH players like itself are "micro regulated," and must pay a licence fee, while streaming platforms have no regulation.

It suggests that TRAI classify streaming services as a distribution platform operator and regulate it under the same terms as DTH operators. This at a time when DTH operators like Tata Play and Airtel have introduced products that enable video streaming distribution.

It's surprising that while the complainants have demanded that TRAI bring the streaming platforms under the same set of regulations as they are subject to, none have asked the regulator to loosen the rules and restrictions that govern them. While it's almost instinctive among businesses to demand lighter regulation, which they say will help them evolve and grow, it doesn't seem to be the focus of any of these operators.

In its consultation paper on market structure/competition in cable TV services, TRAI says that there's a convergence of technologies with broadband and telecom service providers like Airtel and Reliance Jio now providing an alternate to broadcasting services. Based on that, it says that one of the points for consultation is: Given that there are multiple options for consumers to avail of television services, do you think there is sufficient competition in the television distribution sector? While that may be a backhanded way to justify bringing streaming platforms under TRAI regulation, it doesn't explain how doing so will help the TV market, or the Indian consumer.

SHIFTING GROUNDS

One thing ignored in all the complaints about streaming services being "free" or not having to pay a licence fee is the fact that for consumers to watch any streaming content, including the free stuff, they still have to pay for the data to watch it – just as a TV audience must pay a minimum Network Capacity Fee to watch even "Free to Air" channels provided via private DPOs.

Also, while India may be one of the fastest growing economies globally, it still has millions of poor people who cannot afford a TV set but can afford a cheap smartphone—India had 1.1 billion wireless phone subscribers as of February 2022[6]—and many of those subscribers find their entertainment online, through their handsets.

Even for people who can afford a TV set, there's usually only one in a family, so an individual either watches whatever his family members are watching, or he uses his phone to watch what he wants to watch, at a time and place of his choosing.

In other words, customers and their viewing preferences (including the technology to enable these) are changing and that will inevitably lead to the shrinking, if not the death, of some businesses in the ecosystem.

We already saw this with cellphones. When they became available in India in the late 1990s, it was only a minuscule share of people who could afford to buy and use them. But that changed as technology and prices improved, and today while most people have a cell phone, very few have landlines or fixed broadband connections.

Now, slapping a licence fee on streaming platforms won't change that. Nor will putting their content under the censorship scanner do much other than provide the incumbents some temporary glee.

BUSINESSES WOULD BE BEST ADVISED TO FOCUS ON CONSUMERS, INSTEAD OF THEIR COMPETITORS, TO UNDERSTAND WHAT CUSTOMERS WANT AND HOW TO GET IT TO THEM IN A MANNER THAT ENSURES THEIR LOYALTY IN THE LONG RUN.

Instead, businesses would be best advised to focus on consumers, instead of their competitors, to understand what customers want and how to get it to them in a manner that ensures their loyalty in the long run.

The traditional players should also remember that unlike in broadcasting, content and carriage are neatly differentiated in the streaming space, and there is no dispute between Telecom Service Providers (TSPs) and streaming platforms. In fact, bundling has strengthened the relationship between the two.

A CONSOLIDATED FUTURE?

Are there lessons to be learnt from how the sector has evolved in other markets, particularly in the biggest market, the US?

Our main takeaway is that businesses in the US are not linear. With no tariff regulation or regulatory micromanagement, they have merged and evolved to become giants of the industry, and it's not just the obvious media firms that are the market leaders today but also telecom companies, as they provide not only telecom and internet services, but also own broadcast, cable TV and streaming platforms.

For instance, Comcast Corp. owns the media and entertainment giant NBCUniversal, Dreamworks Animation, CNBC, MSNBC, television channels and cable networks, among others. Similarly, AT&T, ostensibly a telecom service provider, owns WarnerMedia, CNN, HBO, Warner Bros. Pictures as well as a majority stake in DirecTV, among a host of other channels and media assets.

Much has been written about the dangers of concentration of media ownership,[7] including in India,[8] and that is a reality to be mindful of. For instance, Comcast has won the title of the worst company in America several times in the past few years.[9] But what is a consumer to do if there are just a handful of providers?

For now, the closest India has to that sort of cross-ownership of assets is in Mukesh Ambani's Reliance Group, which has both a telecom and an internet provider in Jio Platform (and also has a joint venture with Comcast through Viacom18, with James Murdoch and former Disney India executive Uday Shankar also coming in as investors in the latter[10]) and also owns the four largest MSOs in the country along with several prominent news and entertainment channels, the streaming platform Voot and movie studios. On a smaller scale, the Chennai-based Sun Group has cable and direct-to-home distribution assets along with several TV channels and a streaming platform, Sun NXT.

Many of the other Indian players have nowhere close to this sort of scale or ambition. But the fear of being left behind is mostly directed towards the streaming platforms.

And while with some 940 channels available in India today that day is still far off, there's no doubt that it's the smaller distributors, and especially the LCOs, that will lose out as the industry changes. Many of them may merge or be bought out by the bigger distributors. Such is the cycle of business everywhere in the world.

The only thing to be watchful for is that we don't fall into a state of monopoly, that we don't expand or micromanage regulation to make one section of the business community happy. Because none of that will help the consumer or ensure that they have ample, quality choice. It is that which will ultimately, or rather should, drive business.

ANNEXURE

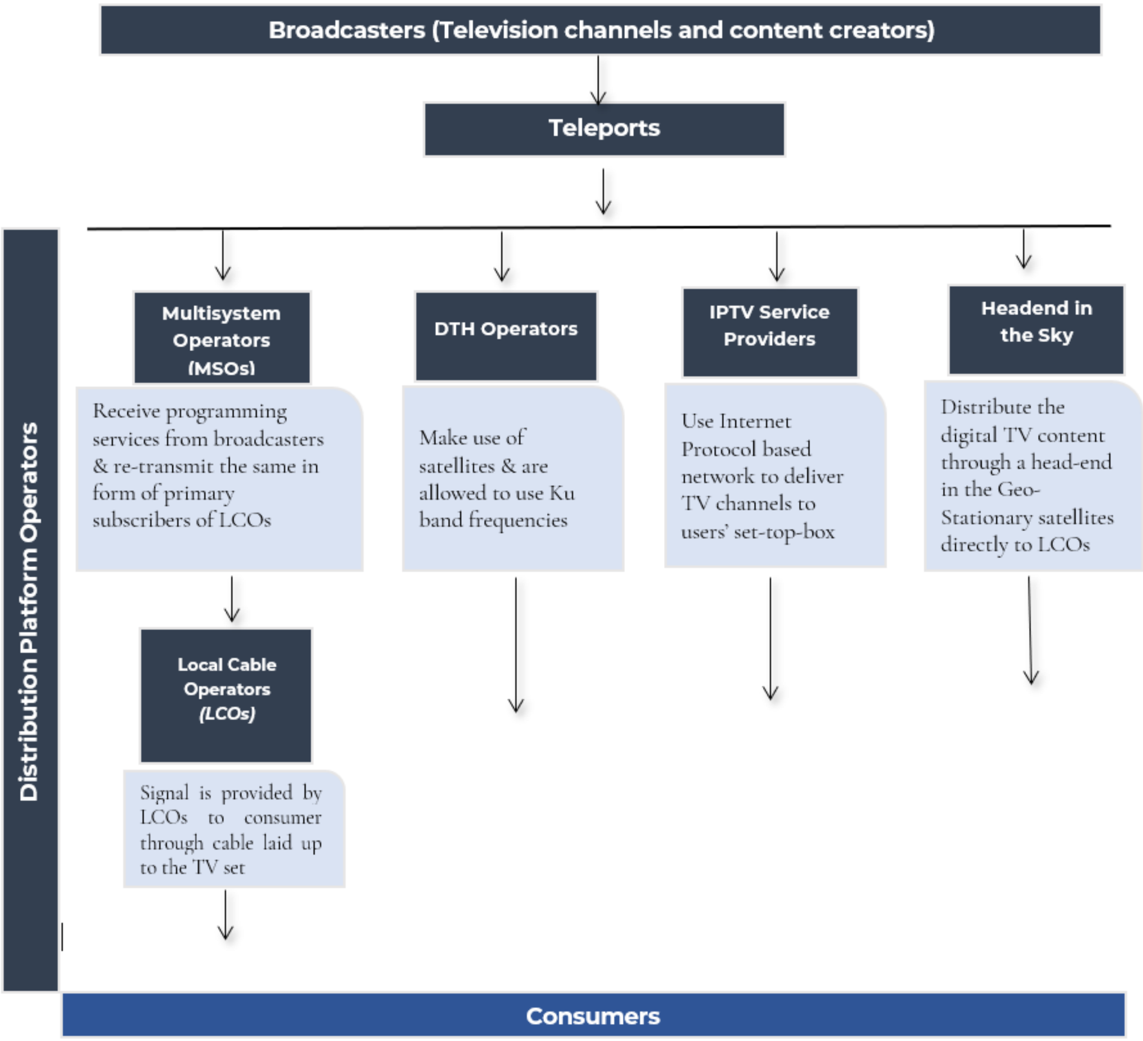


Figure 1: Value Chain of Television Broadcasting and Distribution Industry

ENDNOTES

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