COMPETITION COMMISSION OF INDIA

19th February, 2013

Combination Registration No. C-2013/01/107

Order under Section 31 (1) of the Competition Act, 2002

1. On 24th January, 2013, the Competition Commission of India (hereinafter referred to as the "**Commission**") received a notice under sub-section (2) of Section 6 of the Competition Act, 2002 (hereinafter referred to as the "**Act**") given by UTV Global Broadcasting Limited (hereinafter referred to as "**UGBL**").

2. In terms of sub-regulation (4) of Regulation 5 and sub-regulation (2) of Regulation 19 of the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011 (hereinafter referred to as the "**Combination Regulations**"), vide letter dated 1st February, 2013, UGBL was required to furnish additional information. UGBL filed its response on 7th February, 2013.

3. The proposed combination relates to the acquisition of twenty six percent of the equity shareholding in IC Media Distribution Services Private Limited (hereinafter referred to as "**IC**"), currently a wholly owned subsidiary of IndiaCast Media Distribution Private Limited (hereinafter referred to as "**IndiaCast**"). The notice was filed pursuant to the execution of a Joint Venture Agreement between IndiaCast, UGBL and IC on 19th January, 2013 (hereinafter referred to as the "**JVA**") pursuant to which it has been proposed that UGBL and IndiaCast shall subscribe to the shares of IC such that the shareholdings of UGBL and IndiaCast in IC would be twenty six percent and seventy four percent respectively.

4. UGBL, a company incorporated under the provisions of the Companies Act, 1956, is engaged in the business of aggregation and sub-licencing of pay television channels for its two subsidiaries viz. UTV Entertainment Television Limited and Genex Entertainment Limited. UGBL is stated to be an indirect subsidiary of The Walt Disney Company which is a part of the Disney Group that operates across the world in the business segments of media networks, parks and resorts, studio entertainment, consumer products and interactive media. As per the details provided in the notice, the Disney Group broadcasts nine television channels in India.

5. IndiaCast, a company incorporated under the provisions of the Companies Act, 1956, is engaged in the business of aggregation of television channels broadcast by TV18 Broadcast Limited (hereinafter referred to as "**TV18**"), Viacom18 Media Private Limited (hereinafter referred to as "**Viacom18**") and certain other broadcasters. IndiaCast is currently a subsidiary of TV18. It has been stated in the notice that TV18 is a subsidiary of Network18 Media and Investments Limited (hereinafter referred to as

“**Network18**”), which also holds fifty percent of the shareholding in Viacom18. Network18 with its subsidiaries and affiliates (hereinafter referred to as the “**IndiaCast Group**”) operates in the media and entertainment sector, with interests in television, internet, film entertainment, digital content, e-commerce, magazines, mobile content, event management services and other allied businesses.

6. It has been stated in the notice that the Disney Group and the IndiaCast Group shall grant exclusive licence to IC to distribute their television channel(s). It has also been stated in the notice that post-combination, UGBL and IndiaCast would cease their aggregation business in India as they now propose to carry out the business of providing the service of aggregation in India through IC by way of the proposed combination.

7. Since the business of aggregation of the television channels offered/broadcast by the Disney Group and the IndiaCast Group, in India, is proposed to be transferred to IC by way of issuance of exclusive licenses, in terms of sub-regulation (9) of Regulation 5 of the Combination Regulations, the value of assets and turnover of the respective licensors is attributed to IC. The proposed combination falls under Section 5 (a) of the Act.

8. It is observed that the proposed combination relates to the supply of television channels in India. Conventionally, the television channels were broadcast through terrestrial and analog cable platforms. The digital transmission of television channels, which is of recent origin, comprises transmission through digital cable, Direct to Home (DTH) and Internet Protocol Television (IPTV). Though the subscriber base for platforms using digital transmission of television channels has been growing rapidly, analog cable network continues to be a significant distribution platform for transmission of the television channels.

9. As stated in one of the earlier orders of the Commission, the supply chain for broadcasting of television channels through analog cable network comprises the following: (i) Companies operating the television channels (broadcasters); (ii) Aggregators; (iii) Multi System Operators (MSOs); and (iv) Local Cable Operators (LCOs). The *broadcaster* owns the content that is transmitted to the end consumers. The broadcaster may either produce its own content or source content from a third party. The broadcaster uplinks the content signal to the satellite which is in turn downlinked by the distributors. The broadcaster may transmit its content either directly or through an aggregator. An *aggregator* is a distribution agent who undertakes the distribution of television channels for one or more broadcasters. The aggregator also does bundling of the television channels of different broadcasters and negotiates on their behalf with the MSOs regarding subscription revenues. The sale of television channels to the MSOs by the broadcasters or the aggregators may be on *a-la-carte* basis (each channel sold as a single unit) or as a bouquet (two or more channels bundled and sold as a single unit). The MSOs downlink the content signals of the broadcaster and further distribute the same to LCOs for retail distribution to the end consumer. As per the Telecom Regulatory Authority of India (TRAI) estimates, India is stated to have around 200 broadcasters, 24 aggregators, 6000 MSOs and around 60,000 LCOs (Source: TRAI

Consultation Paper on *Implementation of Digital Addressable Cable TV Systems in India* dated 5th August, 2010).

10. It has been stated in the notice that the sharing of subscription revenue between the broadcasters and its downstream intermediaries is skewed in favour of the group that controls the information regarding the subscriber base i.e., the MSOs/LCOs. However, recently, measures have been taken by the Government of India towards digitization of the cable television system to have an addressable system that enables identification of subscriber base. These measures are primarily with a view to overcome the limitations of analog cable systems including the lack of clarity on the subscriber base and the limitations on transmitting more number of channels to the end consumers.

11. Similar to the analog cable distribution system, in DTH distribution system, the broadcasters/aggregators sell their television channels to DTH Operators (DTHOs) for onward transmission to the end consumer. It is observed that DTH distribution system has gained significance in recent times and is likely to be a preferred choice of new subscribers in near future. As regards the IPTV distribution system, it is observed that the subscriber base in this system is comparatively insignificant.

12. As already observed that both UGBL and IndiaCast are engaged in the business of aggregation of television channels operated/ broadcasted by their respective group companies. As a result of the proposed combination, the aggregation business of both the entities would be combined and carried out by IC. It is also proposed that exclusive distribution licenses would be granted to IC for aggregation of the television channels operated by the Disney Group and the IndiaCast Group. It has been stated in the notice that IC could provide aggregation services to other broadcasters also. Further, the broadcasters enter into aggregation tie-ups to correct the market imbalances created on account of information asymmetry/non-transparency regarding subscriber base. An aggregator offering bouquets consisting of television channels of different broadcasters makes the offering attractive and consequentially places the aggregator in a better position to negotiate subscriber numbers and placement/carriage fees.

13. It is noted that the broadcasting sector in India is regulated by the TRAI, which has framed various regulations which, *inter-alia*, make it obligatory for a broadcaster to provide signals of its television channels on a non-discriminatory basis to every DTHO/MSO and not to enter into exclusive agreements with any MSO/distributor that prevents others from obtaining such television channels for distribution. Further, the regulations and tariff orders issued by TRAI, from time to time, stipulate that broadcasters/ aggregators cannot deviate from the pricing methodology mentioned in those regulations/tariff orders. It is observed that the market for providing the service of aggregation is competitive with a number of players operating therein. Even after the combination there will be 24 (twenty-four) aggregators in the market which would provide enough competition in the market. As per the details provided in the notice, it is also observed that the market share, based on the estimation of TAM for the period 2010-2012, of six television channels aggregated by UGBL along with three other television channels of Disney Group is around 4 percent only. Further, as a result of the

proposed combination, IndiaCast would discontinue its aggregation tie-up with Sun Distribution Services Private Limited and accordingly the market share of channels which would be aggregated by IC would be less than that of IndiaCast.

14. Considering the facts on record and the details provided in the notice given under sub-section (2) of Section 6 of the Act and the assessment of the proposed combination after considering the relevant factors mentioned in sub-section (4) of Section 20 of the Act, the Commission is of the opinion that the proposed combination is not likely to have an appreciable adverse effect on competition in India and therefore, the Commission hereby approves the proposed combination under sub-section (1) of Section 31 of the Act.

15. This approval is without prejudice to any other legal/statutory obligations as applicable.

16. This order shall stand revoked if, at any time, the information provided by the parties to the combination is found to be incorrect.

17. The Secretary is directed to communicate to the UGBL accordingly.