

Workshop on Competition Issues in the Telecom Sector in India Address by Chairperson, CCI

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Department of Telecommunications

My colleagues Member Sangeeta Verma, and Member BS Bishnoi

Distinguished panellists and officers from CCI

Ladies and Gentlemen,

A very good afternoon

1. It gives me immense pleasure to welcome you all to this Workshop on ‘Competition Issues in the Telecom Sector in India’. This workshop is an attempt to bring all stakeholders together on a platform to reflect on the evolving telecom landscape in the country and deliberate on issues that are relevant for regulation and competition law enforcement. As an extension to the Market Study on the telecom sector in India that the CCI conducted recently, this workshop is an endeavour to further our shared goal of preserving and promoting competition in the sector so as to foster a strong, reliable and dynamic telecommunications ecosystem in India.

2. India’s telecom sector has traversed a long way from a public sector monopoly to a multi-player industry, which now has some of the largest and fastest-growing networks in the world. India today ranks second in terms of number of telecommunication subscriptions, internet subscribers and app downloads globally.¹ In the recent past, we have witnessed consolidation, technological advancements and developments within the sector being shaped by the broader digital ecosystem. The links between digital connectivity, telecom networks and economic growth are getting increasingly apparent and stronger.

¹ <https://www.ibef.org/industry/indian-telecommunications-industry-analysis-presentation>

3. The launch of 5G technologies is poised to unleash several disruptive possibilities. In the era of hyper-connectivity, the society stands on the cusp of change. We have evolved from the basic internet connections introduced two decades ago and are now edging towards real-time mobile connectivity with 5G and the convergence of the physical and digital that will be driven by the fifth-generation mobile network and the rise of the Internet of Things (IoT). Network operators are increasingly leveraging the emerging opportunities and trying to create value. Novel business models are thus emerging. Regulating a complex and novel system is a difficult task. Regulators need to ~~and~~ develop the nuanced analytical lens through which they can tackle any potential problematic behaviour.

4. From a policy perspective, at this juncture, healthy competition in the sector is of utmost importance to ensure that market outcomes are in the favour of consumers and the growth in the sector is sustainable, premised on strong fundamentals. The CCI's market study and today's workshop assume significance in this backdrop.

5. At the outset, I would like to thank Secretary, Department of Telecommunications for being part of this dialogue. This, in a way, is also a first-of-its-kind forum for inter-regulatory exchange of views in the telecom sector, which we thought was critical to keep our regulatory efforts ahead of the curve in the face of ever-changing market conditions and business practices.

6. As you may know, the CCI initiated the **Market Study on the Telecom Sector in India** last year, in January 2020. The objective was to better understand the unfolding competition dynamics in the sector, and to identify impediments to competition, if any. The Report with the key findings and observations of the Commission was released recently and is now available on the CCI website.

7. The market study has helped gather useful insights on key features of the telecom sector in India, and issues that may, directly or indirectly, have a bearing on competition.

- The prevailing market structure validates the empirical finding expressed as the rule of three, which predicts that mature markets normally support three main competitors, while others who survive, are limited to the fringes or a niche. The three major private sector operators in India, namely Reliance Jio, Airtel and Vodafone-Idea own almost 88.4 per cent of the Indian market.
- With the market moving towards data-based applications and services, there is a noticeable change in the demand for Quality of Service. The report findings confirm customer preference for network coverage, customer service, tariff packaging and lower tariffs as the most important factors for preference of a particular network.
- The study further suggests that bundled offerings (which include, *inter alia*, voice, data, SMS, and content) will be the focus of differentiation among service providers with service bouquets to be the likely choice for improving customer retention.
- Furthermore, engagements between telcos and Internet-based services companies have moved beyond contractual agreements to other forms of strategic transactions.

8. **The findings of the study suggest that** as technology convergence drives further integration across the value chain, going further, the need to

constantly study trends and practices in the market for any anti-competitive conduct on the part of vertically integrated service providers will become important and instrumental in ensuring healthy competition.

9. From an antitrust enforcement perspective, technology-led convergence has made services less distinguishable, raising new challenges in defining relevant markets. Moreover, the new business models in the telecom industry that are based on **vertical convergence** will necessitate the application of competition tools developed for multi-sided markets.

10. We, at CCI have to be vigilant that such vertically integrated infrastructure providers do not indulge in actions that could have the potential to foreclose entry in the application layer. While vertical integration may not always create barriers, any competition concern arising because of such agreements, could be looked at by the CCI on a case-by-case basis under the provisions of the Competition Act.

11. **Network capacity management** is also a key challenge for operators with the rapidly mounting burden of rich content. It is recommended that peering arrangements which are confidential and are based on bilateral negotiations be made more transparent, to avoid companies discriminating between internet traffic based on their peering arrangement with a company.

12. **With regard to infrastructure sharing, the report has brought out that** there is healthy competition in the passive infrastructure segment. Similar policy enabling active infrastructure sharing may have the desirable effect of promoting competition. Active infrastructure sharing would encourage the growth of Wi-Fi Infrastructure, easing congestion on mobile networks in high density public areas and also enhance internet penetration.

13. Infrastructure utilisation can also be optimised through **unbundling of network components** such as infrastructure, network, service and application layers. Unbundling would allow telcos to reduce their costs by outsourcing specific services to independent license holders and would also increase competition within each layer.

14. Globally, the transition from 4G to 5G is underway and gaining momentum. For India, **spectrum allocation** will be key to the successful launch of 5G services and creating a competitive market for 5G will be crucial to its success. This will imply ensuring assignment of the spectrum at a reasonable cost balancing revenue realisation and industry viability.

15. Given network effects, **access to data** has the potential to become a significant barrier to entry. Most platforms can effectively act as gatekeepers, and can influence and potentially enter multiple markets by attracting online customers. While it is true that such vertical integration can lead to efficiencies that can further enhance networks effects, it is also undeniable that such network effects can also lead to increased switching costs, deterring new players from entering the market. The Commission can examine whether such collection of ‘excessive’ amount of data can be anti-competitive and thus scrutinise such conducts on a case-by-case basis.

16. Another aspect of data in the context of competition in digital communications market is the conflict between allowing access and protecting **consumer privacy**. Privacy can be a parameter of non-price competition. Lowering of privacy protection by dominant enterprises could be construed to be an abuse of dominant position and therefore fall within the ambit of antitrust as low privacy standard implies reduction in consumer welfare. Lower data protection can also lead to the standard legal category of exclusionary behaviour,

which undermines the competitive process. Thus, anti-trust law framework is broad enough to address the exploitative and exclusionary behaviour arising out of privacy standards, of entities commanding market power.

17. With the telecom market study and today's Workshop, we also seek to stress on the need for a harmonious regulatory environment in the telecommunication sector and strengthen cooperation amongst DOT, TRAI, and CCI. In the past, we have engaged with TRAI on multiple consultation papers, such as on the issue of transparency in publishing of tariff orders, on tariff issues, on international mobile roaming services, etc., where the competition regulator's views were sought as part of the consultation process and we did share our considered opinion.

18. Going forward, formal and informal lines of communication between DoT, TRAI, CCI and the envisaged Data Protection Authority will be important to ensure that regulatory decisions are robust and consistent. While overlapping jurisdiction between institutions cannot be eliminated, it ought to be harmonised through better regulatory design and improved lines of communication. The inter-regulatory consultation mechanism as provided in Sections 21 and 21A of the Competition Act allows for formal lines of communication between the CCI and other relevant regulators, which going forward will be extremely important. The CCI will remain committed to resolve antitrust and competition related issues.

19. I keenly look forward to productive discussions in the workshop today, which I hope will provide practical insights for both regulation and antitrust in their quest to preserve and deepen competition in the telecom sector - an imperative for realising the ambition of a 'digital India'.