

STATUS OF DISPUTE SETTLEMENT MECHANISM IN BROADCASTING SECTOR IN INDIA.

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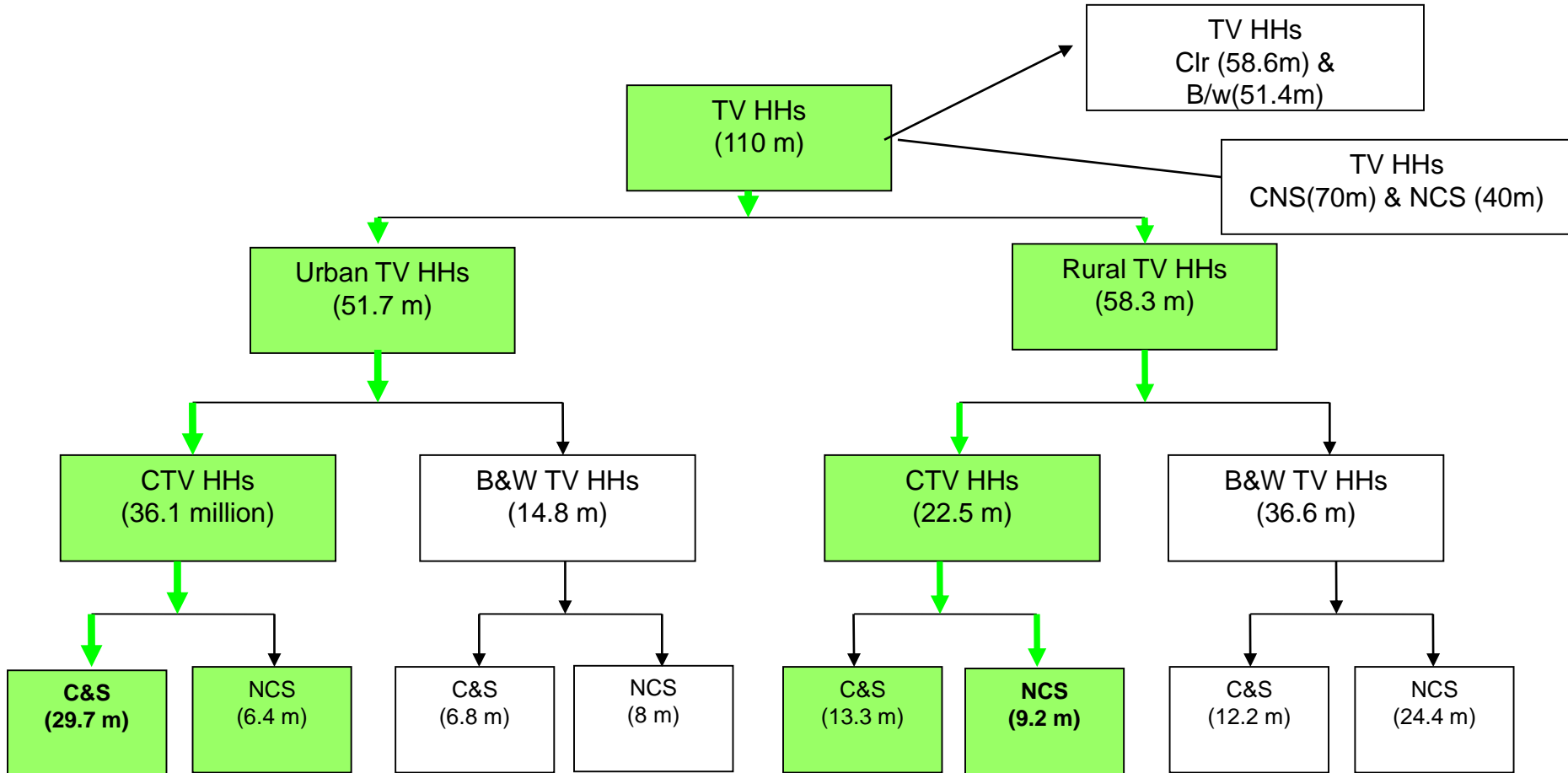
President

Indian Broadcasting Federation

*This presentation is the personal view
of the speaker and should not be
treated as the view of the IBF.*

BROADCASTING INDUSTRY OVERVIEW

The Consumer Segments



Indian Television Distribution Chain

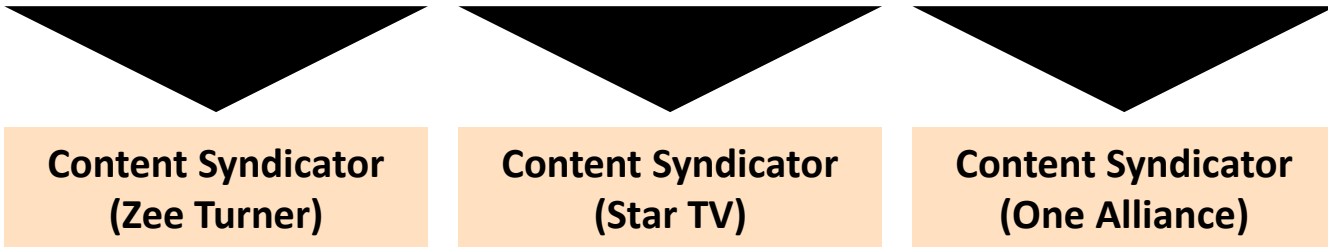
Up linking from India

Up linking from Abroad

300
CHANNELS



7,000+
HEADENDS



+

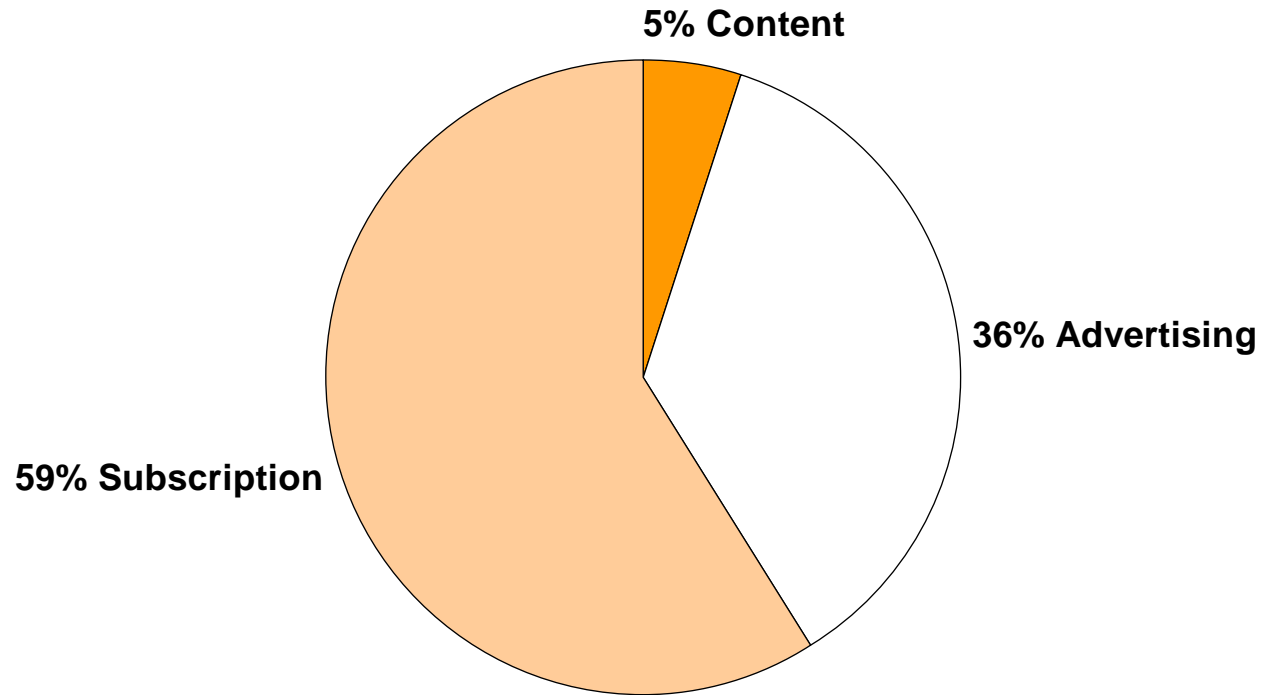
7 LARGE
MSOs



40,000
LCOs



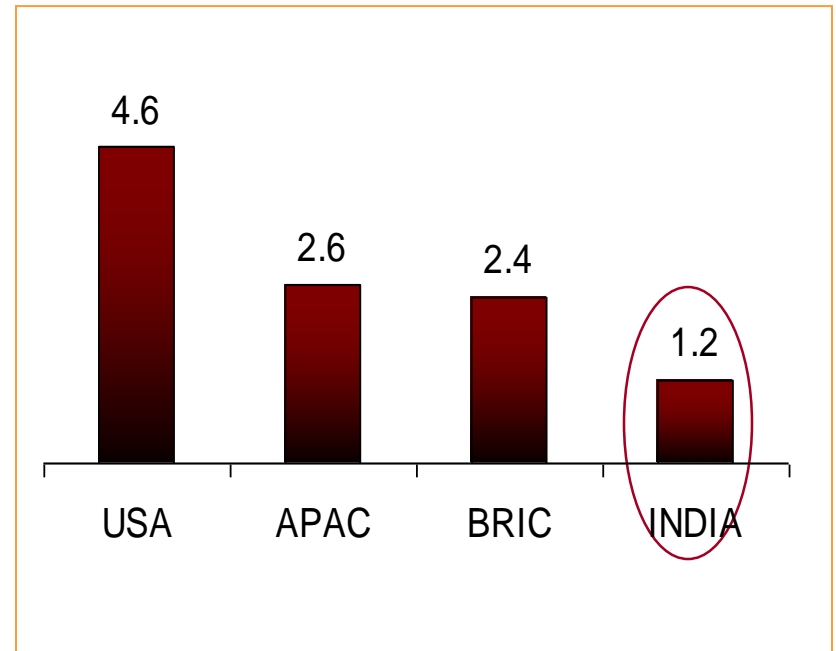
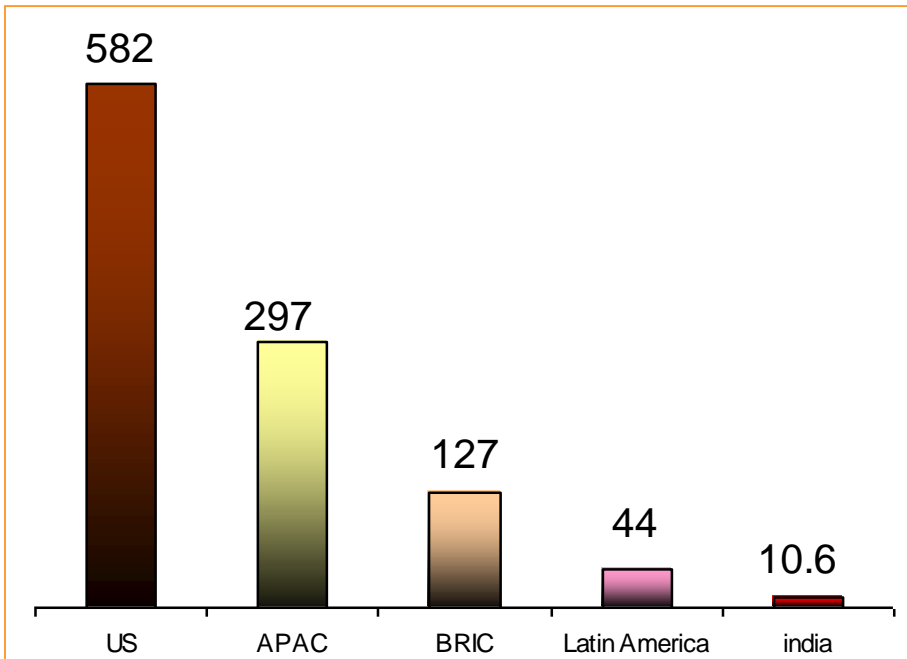
...The Revenue Pie



Source :SSKI Research

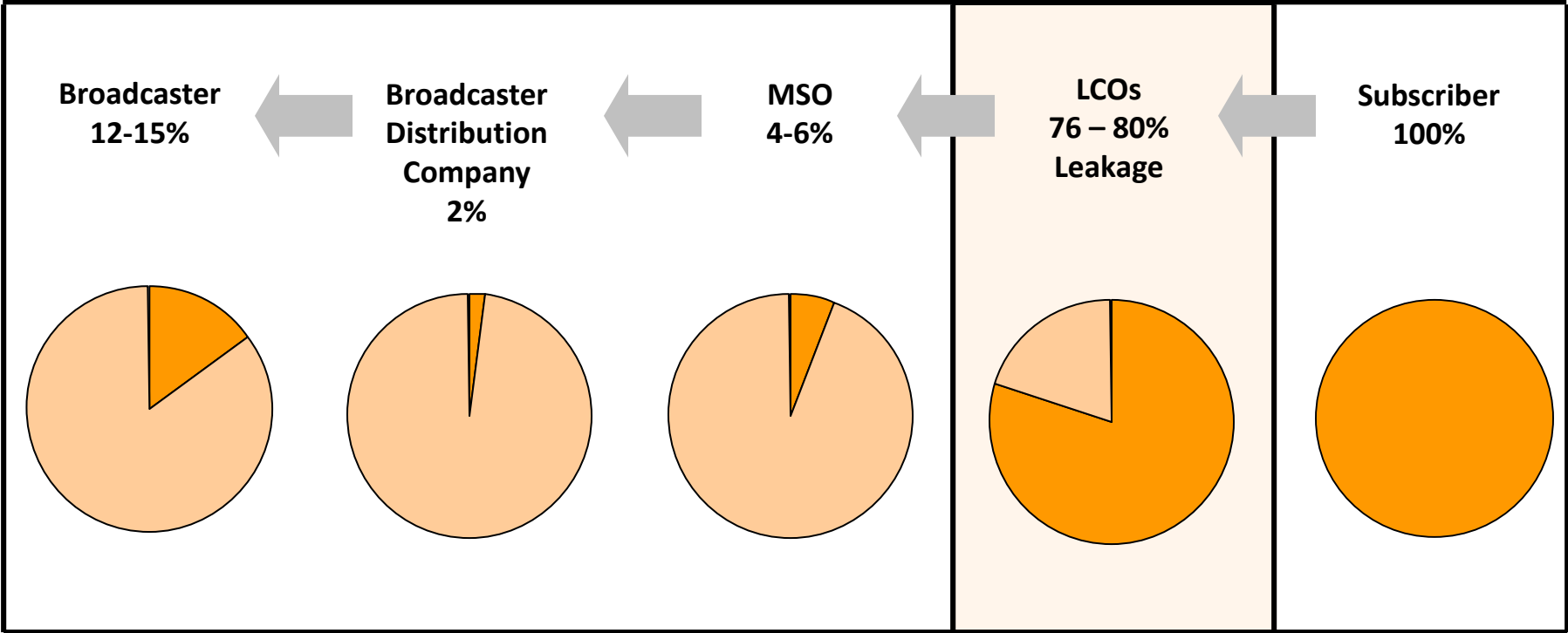
Size of the Global Media & Entertainment Industry

US \$ 1470 Bn



Revenue as a % of GDP

Leakages Happening at LCO level

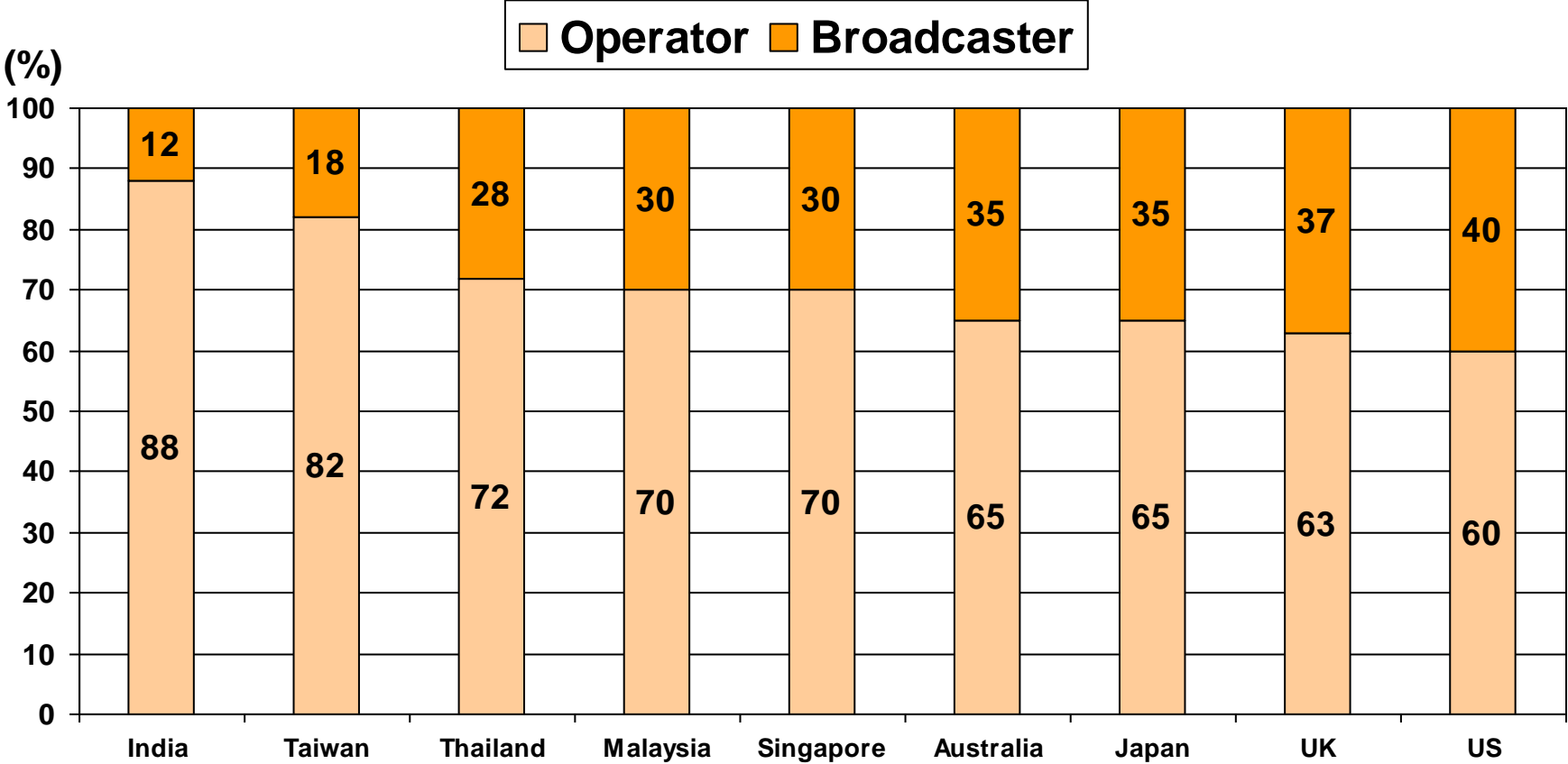


Source :SSKI Reasearch

Distribution of Revenues

Markets	Operator	Broadcaster
USA	60%	40%
UK	63%	37%
Australia	65%	35%
Japan	65%	35%
India	88%	12%

Broadcaster's Share Far Below the Global Average



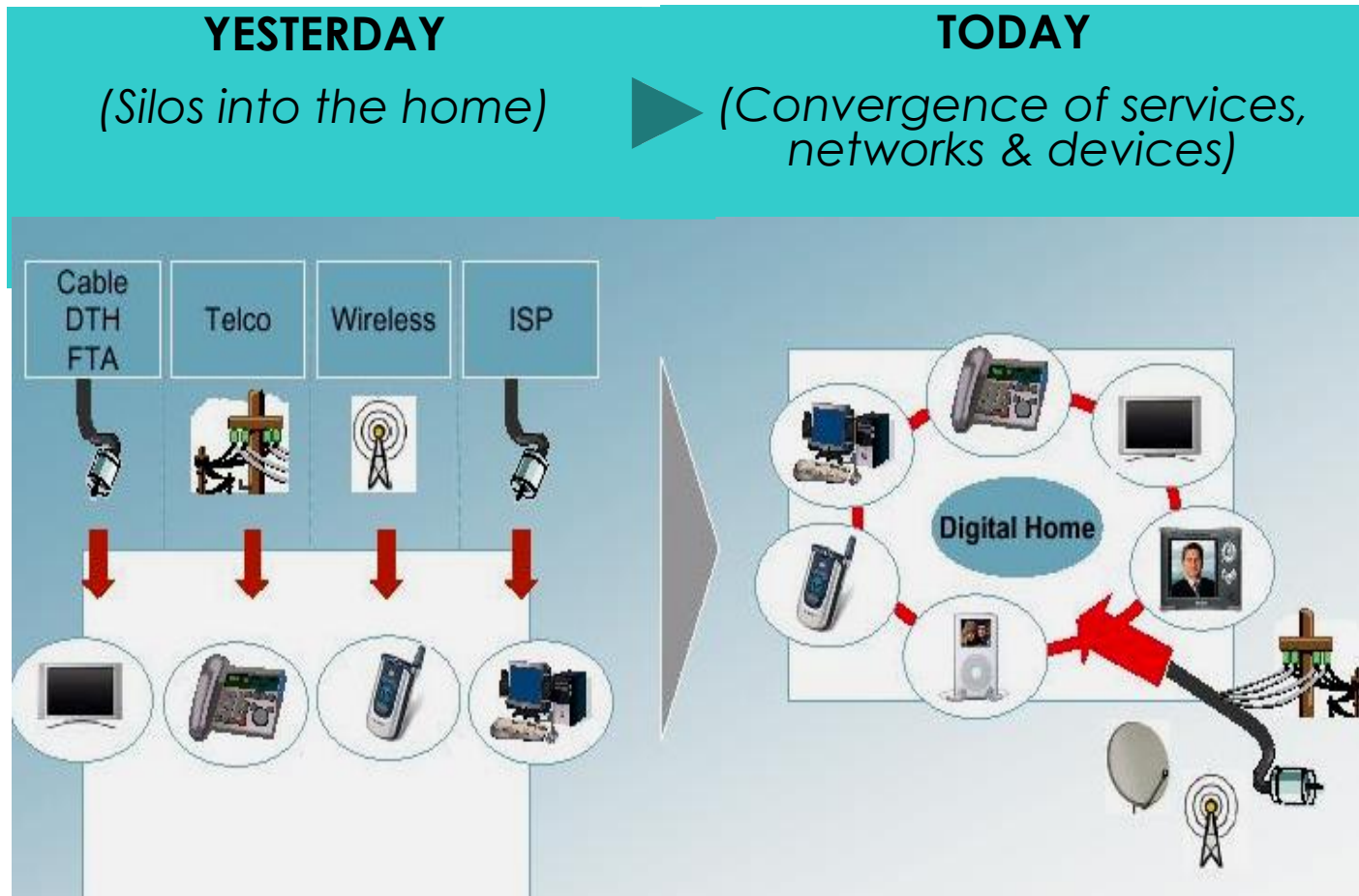
Source :SSKI Research

What we provide

- We, provide you content on 365 days a year on 24X7 basis.
- Broadcasters are required to invest heavily in acquisition / procurement of content which inter-alia include:
 - *News & Current Affairs content disseminating news, views & infotainment, business affairs.*
 - *Entertainment programmes such as serials, quiz shows, celebrity shows, talent hunts.*
 - *Movies rights.*
 - *Religious content.*
 - *Events Rights & Sports Broadcasting rights.*
- Huge expenditure on setting-up broadcast facilities, uplinking teleports & leasing transponder space on satellites to effect delivery of channels to distributors of channels.
- Rate regulation and price controls distort the market and lead to a misallocation of resources.
- Artificially low prices deter any further investment in new Channels and programming, affecting consumer choice and creating a shortage of quality channels and variety in programming.
- A Myth - Channel prices are quite high and need regulation.- Newspaper example
- Regulator needs to balance “equity” and “consumer interest”.
- Prices for Telecom Services have come down because of competition. In addition while fixing tariffs, IRR (internal rate of return) calculations were done by the Regulator in respect of these services. No such exercise initiated for Broadcasting & Cable Sector.

BROADCASTING INDUSTRY – FUTURE PROJECTIONS

Future - Multiple layers of Convergence



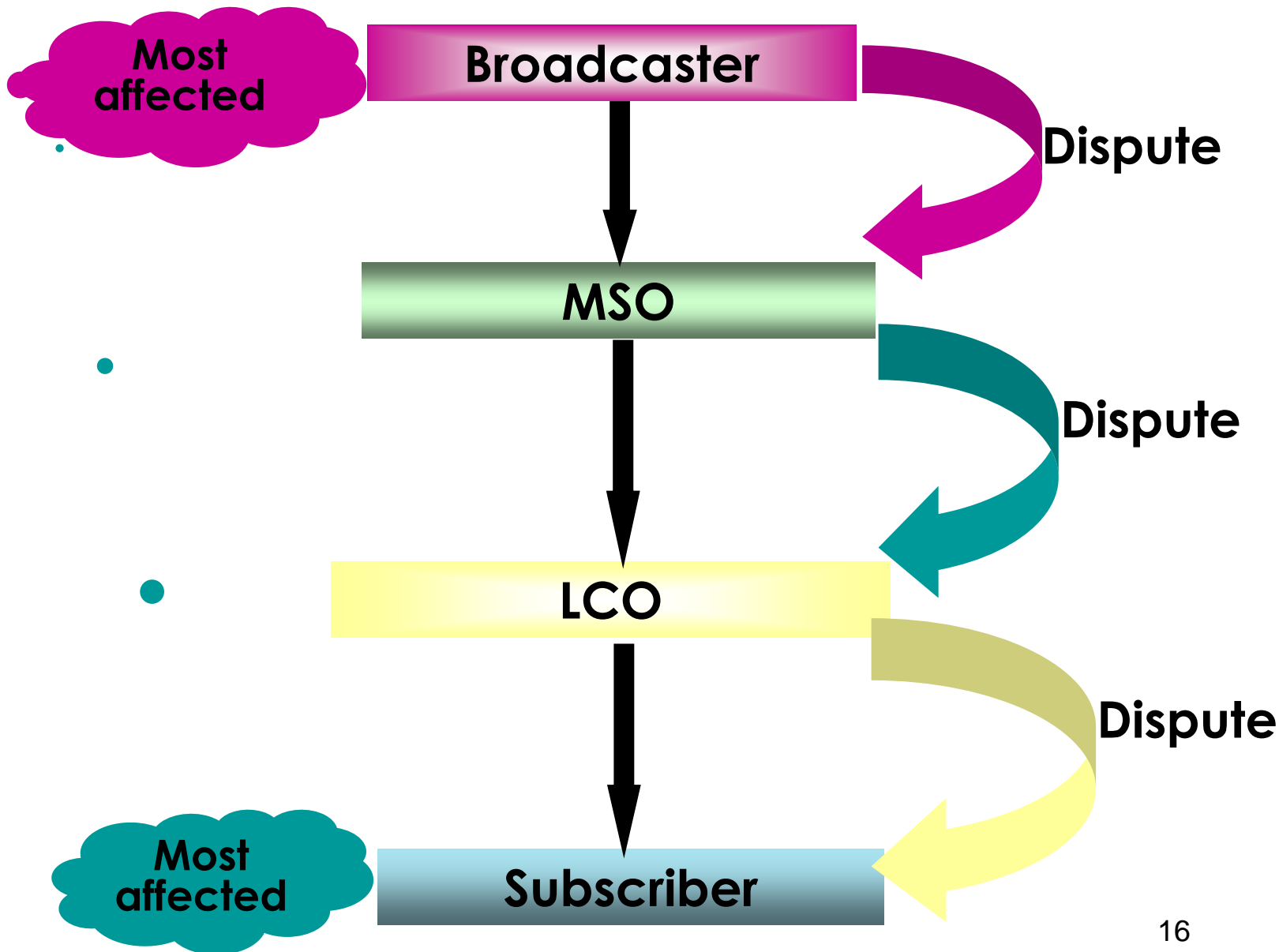
Future Projections

- **The Broadcasting Sector in India is undergoing a process of sweeping changes driven by advent of new distribution technologies such as DTH, Broadband, CAS, HITS, IPTV, etc.**
- **A recent report by Price Water Cooper (PWC) has projected**
 - **Indian entertainment & media industry is expected to grow at 18% compound annual growth rate (CAGR)**
 - **Reach a projected size of Rs.1 lac Crore by 2011 from its present size of Rs.43,700 Crores.**
 - **The Television industry is projected to grow 22% CAGR from Rs.19,100 Crores to Rs.51,900 Crores by 2011.**
- **One of the contemporary challenges at the moment is to evolve such a Legislative & Regulatory mechanism,**
 - 1 which enables technological innovation, competition and consumer choice.**
 - 2 Maintaining the central policy objective of dissemination of diverse news, views, information and entertainment to all without any discrimination.**
 - 3 Equitable distribution on the consumer spend across the value chain**

LAYERS OF DISPUTES & THE AFFECTED PARTIES

Existing Scenario

- **Over 300 Channels are available over Indian Sky.**
- **Most of the cable plants are analogue and have limited channel carrying capacity. At present 65-75 channels are being delivered by most of the cable operators.**
- **Pay TV channels are encrypted till the MSO/Cable Operator head-end and then supplied on Free-To-Air (FTA) basis to the subscribers. Hence they are 'Pay' to the cable industry and 'FTA' to the customers.**
- **In Non CAS area the freeze on all pay channel prices which are in existence as on 1/12/07 has been continued by a Tarriff order of TRAI dated Oct 04, 2007**
- **Channels to be offered on ala carte basis as well by Broadcasters to MSO although no effective choice available to the consumers because of technological impediment on account of non addressability.**
- **Overall ceiling on cable prices at retail level stipulated ranging from Rs 77/- for FTA channels to Rs 260/- (FTA a+ Pay channels)**
- **Lack of on ground competition at LCO level. Consumers do not have choice to choose their service provider.**
- **Frequent disputes on subscriber base between Broadcasters & MSOs and MSOs & Cable Operators as there is no technological mechanism to ascertain true subscriber base in non-addressable environment. Lack of transparency at various levels in the value chain. Results in frequent "switch off" causing consumer distress.**
- **Traditionally, the bulk of cable TV subscription is retained by local cable operators (LCOs) who only declare a negotiated amount of subscribers to the MSOs paying a portion of subscription fees. The distribution of revenue in non-addressable environment is highly skewed in favour of distributor of channels and the broadcaster get only a fraction.**



DISPUTES BETWEEN SERVICE PROVIDERS

DISPUTES

LCO

- **Service Quality**
- **Price discrimination**
- **Limited choice of channels**
- **Interruption in cable services**
- **Change in channel placements**
- **No effective consumer redressal system**
- **No value for money**
- **Non availability of channel guides**

Subscriber

DISPUTES

MSO

- **Non disclosure of complete subscriber base by LCO.**
- **Piracy of signals/Inserting advertisements.**
- **Non payment of subscription fees.**
- **Non renewal of service agreements.**
- **Frequent change in loyalty of the LCOs i.e.**
 - **migration from one MSO to another**
 - **leaving subscription dues/arrears.**
- **Resistance to adapt themselves to**
 - **changing technology.**

LCO

DISPUTES

Broadcaster

- **Subscriber base.**
- **Territory issue – transmission in unauthorised areas.**
- **Non payment of subscription fees.**
- **Non renewal of service agreements.**
- **Alleged unreasonable clauses in service agreements.**
- **Piracy of signals/copyrights.**
- **Resistance to adapt to changing technology.**
- **Limited bandwidth capacity.**
- **Change in channel placements.**
- **Interruption of cable services at their own.**
- **Undue advantage of regulations.**
- **Compliance cost.**

MSO

REGULATORY MECHANISM

Protection of service providers & consumers interest – TRAI Act, 1997

- The preamble of the Act reads as under:-

▪ “An Act to provide for the establishment of Telecom Regulatory Authority of India and the Telecom Disputes Settlement and Appellate Tribunal to regulate the telecommunication services, **adjudicate disputes, dispose of appeals and to protect the interests of service providers and consumers** of the telecom sector, to promote and ensure orderly growth of the telecom sector, and for matters connected therewith or incidental thereto.”

Tariff Order for Non CAS Areas

The Telecommunication (Broadcasting and Cable) Services Tariff Order, 2004, dated January 15, 2004 as amended by the Order dated October 1, 2004 and Oct 04, 2007 , whereby the charges payable by:-

- **Cable subscribers to cable operator;**
 - **Cable operators to multi system operators/broadcasters (including their authorised distribution agencies); and**
 - **Multi system operators to broadcaster (including their authorised distribution agencies)**
-
- *as prevalent on December 1st, 2007 with respect to both free to air & pay channel have been frozen.*
 - *With a further ceiling ranging from Rs. 77/- to Rs 260/- per month depending on the number of channels delivered and cities.*
 - *Channel to be made available on ala carte basis even in non addressable areas.*

Broadcasters issues vis-à-vis Regulatory Mechanism

- **Tariff Freeze Order dated 15/01/2004 as amended by 01/10/2004 was sought to be temporary, but the same has been extended by tariff order dated 04/10/07 causing huge revenue losses to Broadcasters.**
- **Most of the provisions of tariff order dated 04/10/2007 will not only further distort the market but also lead to**
 - **Decline in the quality of content and services.**
 - **Operator demanding heavy carriage fee for carrying the channels.**
 - **No effective choice to the consumers in absence of addressability**
 - **More disputes amongst stake holders.**
- **TRAI itself in its recommendation dated 01/10/2004 has observed**
 - *“It must be emphasized that the regulation of prices as outlined above is only intended to be temporary and till such time as there is no effective competition. The best regulation of prices is done through effective competition. Therefore as soon as there is evidence that effective competition exists in a particular area price regulation will be withdrawn. TRAI will conduct reviews of the extent of competition and the need for price regulation in consultation with all stakeholders.”*

The Telecommunication (Broadcasting And Cable Services) Interconnection Regulation, 2004.

(Notified on 10/12/2004 as amended by notification dated 04/09/2006)

Specific Issues

- **No disconnection of signals whether on account of non-payment or on account of piracy without giving 21 days notice.**
- **In the interest of consumers the information regarding disconnection is required to be given in 2 local newspapers/by way of scroll on particular TV Channel.**
- **None of the MSO complies with the stipulation that in non-addressable systems, the multi system operators to furnish the updated list of cable operators along with their subscriber base to the broadcasters on a monthly basis.**

Disputes Resolution Mechanism

TDSAT

- ✓ Sec 14(a) confers jurisdiction upon TDSAT to adjudicate disputes between two service providers and licensor & licensee. Sec 14(b) provides for disposal of appeal against any direction, decision or order of the TRAI.
- ✓ As per section 14 of TRAI Act the complaint of individual consumer which is maintainable before the Consumer Redressal Forum / Commission / National Commission can not be entertained by TDSAT.
- ✓ Section 14(a)(iii) provides that TDSAT has jurisdiction to adjudicate any dispute between **a service provider and a group of consumers**. Therefore a group of consumers can approach TDSAT and seek adjudication.

Disputes Resolution

- **MSO maintaining a record of number of franchisees served & their individual HH connections through a transparent system. (Interconnection Regulations – SLR).**
- **Timely payment & renewal of agreement. (Interconnection Regulations – SLR).**
- **Appointing independent piracy check agencies.**
- **Appointing independent subscriber survey agencies.**
- **Roll out of digital addressable systems.**
- **Last but not the least review of the tariff orders both for CAS and Non CAS areas.**

All stakeholders need to work together to maximise consumer satisfaction...

Thank You!