

**TELECOM DISPUTES SETTLEMENT & APPELLATE TRIBUNAL  
NEW DELHI**

**Dated 6<sup>th</sup> December, 2005**

**Petition No.110(C) of 2005  
(M.A. No.148 of 2005)**

M/s Krishna Cable Network  
Through its Sole Proprietor  
Shri Kishor M.Kuhada  
Madhusudan Ice Factory  
Khara Kuwa  
Veravel, Gujarat

....Petitioner

Versus

1. Star India Private Limited  
Star House, Dr.E.Moses Road  
Mahalaxmi  
Mumbai

2. Mr.Anil Dev Murari  
Shri Ram Cable  
Rayon House Society  
At Post Veravel  
Junagadh – 362 275

....Respondents

**BEFORE:**

**HON'BLE MR.JUSTICE N.SANTOSH HEGDE  
CHAIRPERSON  
MR.VINOD VAISH, MEMBER  
LT.GEN. D.P. SEHGAL(RETD), MEMBER**

For Petitioner : Mr.Navin Chawla, Advocate

For Respondent No.1 : Mr.Gopal Jain, Advocate with  
Ms.Kanika Agnihotri, Mr.Ashish Jha,  
Ms.Simran Brar, Mr.Sarvesh Singh  
Advocates

For Respondent No.2 : None.

## **ORDER**

In this petition, filed under Section 14 and 14A of the Telecom Regulatory Authority of India Act, 1997 (for short the “Act”), petitioner has prayed for a direction to Respondent No.1 to supply signals of its bouquet of channels to the petitioner on such terms and conditions as may be deemed just and reasonable by this Tribunal. Cause of action for seeking this relief arose from the fact that the petitioner was receiving signals from the 1<sup>st</sup> respondent broadcaster, when the petitioner was informed that respondent has appointed another Multi-System Operator (MSO), the 2<sup>nd</sup> respondent, as its exclusive MSO, therefore, the petitioner should seek signals from that MSO. The petitioner contends that this direction to seek signals from a competing MSO is contrary to the Telecommunication (Broadcasting & Cable Services) Interconnection Regulation 2004 (for short the “Regulation”) wherein in Paras 3.1 and 3.2 it is provided that a broadcaster of TV channels should not engage in any practice or activity or involve himself in any exclusive contract with any distributor of TV channels which prevents another distributor of TV channels from obtaining signals directly from the broadcaster. It is further pointed out that Para 3.2 of the Regulation also mandates the broadcaster to provide on request signals of its TV channels on non-discriminatory terms to all distributors of TV channels. From the definition in the Regulation it is pointed that a distributor and MSO stand on the same footing.

The learned counsel for the petitioner also placed reliance on an order of this Tribunal dated 24.08.2005 in Petition No.41(C) of 2005 between Sea TV Network Ltd. Vs. Star India Pvt. Ltd. & Another wherein this Tribunal while interpreting the above stated paragraphs has held that there is an obligation on the part of the broadcaster to treat similarly situated persons equally. In that petition, this Tribunal had an occasion to go into the provisions of Para 3.3 and proviso therein and interpret the same harmoniously so as to bring it in conformity with the regulations found in Para 3.1 and Para 3.2.

The learned counsel for the respondent, however, contended that this Tribunal has not noticed the definition of an MSO in Definition Clause 2(m) of the Regulation as also proviso to Para 3.3 in the abovesaid judgment of Sea TV Network Ltd.(supra). It is argued that if the said definition and the proviso to Para 3.3 are to be read together it is seen that a broadcaster is permitted to make arrangements to supply signals to an MSO through any other distributor or MSO, so long as the supply of signals is not prejudicial to competition. It is also contended on behalf of the respondent that even Para 11 of the Explanatory Memorandum to the abovesaid Regulation attached as Annexure-A also empowers a broadcaster to make such arrangements for supply of signals so long as it is on a non-discriminatory basis.

We do not think that the learned counsel for the respondent is correct in the interpretation he has placed on the Definition Clause as well as the proviso to Para 3.3 of the Regulation as also to Para 11 of the Explanatory Memorandum. Our order in Sea TV Network Ltd.(supra) has dealt with all

the issues and has specifically held that a broadcaster cannot compel an MSO who seeks signals directly from it to obtain signals from another competing MSO as it would affect the right of an MSO to seek signals directly and would be pre-judicial to competition.

Following the above order, we direct the Respondent No.1 to supply signals to the petitioner directly on reasonable terms as may be agreed to by the parties, within three weeks from today.

The second prayer of the petitioner for seeking damages is rejected since no particulars showing the actual loss has been pleaded or proved by the petitioner.

Petition is allowed to the extent stated above.

.....Sd/-.....J  
(N.Santosh Hegde)  
Chairperson

..... Sd/-.....  
(Vinod Vaish)  
Member

..... Sd/-.....  
(D.P. Sehgal)  
Member