

# Consumer choice & live cricket

BCCI may have several questions to answer if the Competition Commission were to initiate proceedings

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**T**he uncertainty and instant thrills of a live sports event give it high economic value. Football in Europe or cricket in India, the stakes to win exclusive broadcast rights are high. Equally, there's a common pattern here if we view the two under the lens of competition law.

The European Commission (EC) views the sale of exclusive broadcast rights for football matches as anti-competitive not only because it reduces consumer choice, but also because it prevents other broadcasters from competing for the rights. This has implications for broadcast rights of cricket matches owned by the Board of Cricket Control for India (BCCI) and the Indian Premier League (IPL). Due to similarities in law, issues dealt with by the EC are likely to arise before the Competition Commission of India (CCI).

Under the European competition law, agreements which prevent, restrict or distort competition are also considered illegal. The EC has observed that live sport events reach an identifiable audience and have a separate market because of the unpredictability of outcome, thereby distinguishing them from other forms of entertainment.

In one case (KNVB/Sport 7), the EC held that though exclusivity per se is not anti-competitive, grant of exclusive broadcast rights for eight years by the Danish Football Association was anti-competitive. In TV Rights to the Union of European Football Associations (UEFA) Champions League (2002), the EC held that granting the sale of the "entire rights" on an exclusive basis for a long period to one broadcaster leads to unsatisfied demand from other broadcasters, and a reduced ability to make an attractive offer to customers. Further, at the end of

the exclusivity period, the existing broadcaster is financially better equipped to acquire the rights a second time. The EC also opined that broadcast rights get limited with an increasing number of TV rights being awarded on an exclusive basis for a long duration, or for covering a large number of events. This strengthens the market position of the most prominent (richest) broadcasters, as they are the only operators who are able to bid for TV rights sold in large packages.

India's Competition Act, 2002, (Act) holds void any agreement that causes or is likely to cause an appreciable adverse impact on competition. Agreements which limit or control supply are presumed to be anti-competitive. But BCCI has been selling exclusive broadcast rights for long periods. With the emergence of private broadcasters in the 1990s, BCCI sold a five-year contract to ESPN STAR Sports (1995-99), and to Prasar Bharati (1999-2004). Thereafter BCCI sold the rights on a territorial basis and Nimbus Communications bought the rights for India for five years (2006-10), ESPN STAR Sports for overseas matches for four years (2005-08) and Zee Television for matches in neutral venues for five years (2006-11). The broadcast

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rights to IPL were sold to a WSG-Sony Entertainment combine for a period of 10 years for \$1.03 billion.

It's important to consider the impact of such agreements on the existing players. Nine major broadcasters are either involved or plan to bid in India—ESPN STAR Sports, Ten Sports, Sony Entertainment Television, Nimbus, Zee Television, Prasar Bharati, 9X, Sahara and the NDTV Group. Of these, only Nimbus, Zee and ESPN STAR possess broadcast rights for different territories. So, can such agreements be considered anti-competitive on the ground that they limit supply in the broadcast market?

The cumulative effect of BCCI's grant of exclusive rights for the periods 2006-10, 2006-11 and 2005-08 can lead to the following: (i) creation of barriers to new entrants, (ii) driving out existing competitors and (iii) foreclosure of competition by hindering entry into the market.

The apprehension on creating barriers gains credibility by the dominance acquired by ESPN which, after buying the first-five year term (1999-2003), then bought

the overseas broadcast rights for 2005-08 from BCCL, as well as the rights for all the International Cricket Council (ICC) matches for 10 years (2006-2015). Only recently has Nimbus been able to outbid ESPN, while others such as Sony and Ten Sports provided some competition during the period 2004-2006.

Granting exclusive rights to a private broadcaster also restricts the supply to consumers of these matches (viewers) in India. Of the 112 million television homes in India, only 68 million are cable and satellite homes and 3.2 million are direct-to-home subscribers. This means 64% of television homes have access to paid channels such as ESPN STAR—depriving 36% of the live telecast. Doordarshan, the terrestrial broadcaster, reaches 75% of the urban population and 38% of the rural population.

The consumer reach of these matches is extended to the Doordarshan-dependent population by the Sports Broadcasting Signals Act, 2007, which mandates sharing of sports broadcasting signals of "sporting events of national impor-

ance" with Prasar Bharati. These events include all one-day and Twenty-20 matches played by the Indian cricket team as well as the semi-finals and finals of the World Cup and the ICC Championship Trophy. By requirement of law, live-telecast of specified matches has been made available to the Doordarshan-dependent population. But the anti-competitive elements of BCCI and IPL agreements remain in question.

Exclusive broadcast rights of live cricket matches for long periods might have potential anti-competitive effects. It would indeed be interesting to see if the CCI would subject BCCI to the same scrutiny as the EC did to UEFA. Though it is difficult to predict the outcome, one can safely say that BCCI and its exclusive broadcasters may have questions to answer in case the CCI initiates proceedings against them.

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