BREAKING BOUNDARIES: CRICKET'S ROLE IN THE RELIANCE-DISNEY MERGER

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ABSTRACT:

The article shall look into the anti-trust issues that emerged in the Reliance Industries and Walt Disney $8.5 billion merger. It brought into light various issues in relation to the monopoly of cricket broadcasting rights as the "pain point" of cricket broadcasting, which was determined to be non-replaceable in the Indian market. In order to quicken the process and lessen the concerns about the regulatory aspect, Reliance and Disney made certain voluntary offers. The article will talk about such modifications made and how companies regulate their merger in order to get CCI's approval and will they stick by it in the long run?

Introduction

In February 2024, Reliance Industries Limited (RIL) and The Walt Disney Company announced a merger of their Indian media assets worth $8.5 billion. They aimed to create this largest entertainment house with more than 120 television channels and two leading streaming platforms. However, India's Competition Commission (CCI), raised some anti-trust concerns particularly concerning cricket broadcast rights, a lucrative and culturally significant domain. The blog shall explore the implications of the merger, antitrust challenges related to cricket broadcasting, and the steps taken by both companies to gain regulatory approval and go ahead with the merger.

The Merger: Background and Objectives

The deal between Reliance and Disney is a reflective of strategic reasons from the point of view of both the companies. For Disney, it is a relief from the challenging Indian market as Hotstar has been facing subscriber losses and decreased profits. On the contrary, Reliance has its eyes set on dominating at the fast-growing Indian media and entertainment sector, capitalising on JioCinema's rising worth and its' monopoly over IPL streaming rights. It would challenge (competitors) like Sony, Zee, Netflix and Amazon on the content side, reach and advertising market share.

The merged companies have a total of 120 telecast channels across diverse genres including sole cricket telecast rights for all big leagues including IPL and ICC matches till 2027. Additionally, the combined OTT platforms of JioCinema from Reliance and Disney's Hotstar would make over 2 lakh hours of content available, neu-ralizing dominance in all segments and genres from a regional and natio-nal perspective. In the case of a merger which had clear synergies, the effects on competition, especially in cricket broadcasting and advertising, posed significant regulatory concerns.

Cricket's Central Role and Antitrust Concerns

In India, cricket holds unparalleled prominence; in 2023 it claimed a whopping 87% of the total $2 Billion in advertising with respect to sporting events. The viewers' engagement with the sport goes beyond simple fun, as it translates into advertising revenue and increased subscriptions. Therefore, antitrust investigation focused on the merger's integration of cricket rights in the first place.

For major cricket events like the IPL, ICC tournaments, and BCCI matches, the combined entity would have the rights to broadcast on TV and internet platforms. A monopoly situation is feared as a result of this consolidation. Advertisers are worried about inflated rates and diminished bargaining leverage, as the combined company will control 40% of India's TV and OTT advertising market. Due to the merged entity's dominance in cricket broadcasting, competitors like Sony and Amazon Prime faced the chance of losing a sizable portion of the market, while customers also faced the risk of possible price increases in subscription charges as a result of cricket's necessity for OTT platforms.

Regulatory Challenges: The CCI's Initial Response

The CCI recognised no AAEC concerns, however, wanted some voluntary modifications in the merger. In order to assess the merger's competitive impact, the CCI posed 100 pointed questions, paying special attention to pricing power, advertising access, and consumer options. One of the most important of these was the "pain point" of cricket broadcasting, which was determined to be non-replaceable in the Indian market. The CCI's analysis revealed that Reliance-Disney's dominance over cricket rights, encompassing IPL and ICC matches, might disrupt the advertising ecosystem, with potential price hikes of up to 25% for premium ad slots during live games.

Additionally, the combined entity's combined market share in TV sports advertising would surpass 40%, according to the CCI's internal evaluations. Concerns regarding OTT platform subscription price rises were brought to light by consumer advocates, especially in a market dominated by cricket with few alternatives. In order to stop anti-competitive behaviour, CCI underlined the necessity of providing fair competition for advertisers and broadcasters.

Strategic Adaptations to Gain CCI Approval

In order to quicken the process and lessen the concerns about the regulatory aspect, Reliance and Disney made certain voluntary offers. In order to reduce competition in the regional content markets, they decided to divest seven non-sports television networks including CNL and Star

Jalsha Movies among others. The action was geared towards allaying fear of dominance of specific market segments based on language.

The parties also undertook not to cross sell the global advertising spaces during the ad airing of IPL and ICC matches. The said allowance aimed at restoring the normal market forces in the advertising space as they did not want advertisers to be short of options. To reduce concerns of anti-competitive pricing practices, the merged entity also undertook to cap rates on cricket event advertising to the level prior to merger, until the rights were out.

In an effort to increase the economic autonomy and minimize its interference orders over the domestic television operator, it further agreed to pay Its promoters 24.5% of ETV's voting power. Together, these changes demonstrated the companies' plans to address antitrust concerns and also got CCI's approval.

The Role of International Precedents

The regulatory process for the merger has a similar developmental pattern as in other places of the world and more so in the European Union, where with the same nature of merger had been accompanied by stringent requirements against competition. For instance, the European Union's directive for the Discovery-Scripps[1] merger included responsibilities assuring other competitors fair treatment in terms of access to television networks. Similarly, in the case of the merger between Disney and Fox[2], the sale-off of factual television channels was necessary in order not to create an imbalance of power in specific content market. Such instances highlight the importance of structural remedies – for instance, divestitures – in the effective resolution of competition problems.

Devil's Advocate: Challenging the Merger's Rationale

It has been pointed out among others that the alleged synergies from the merger could stifle competition and thus lead to net negative effects on the welfare of the consumers. The danger of the broadcaster's combination of cricket rights is that it might reduce the local television audience by reducing local cricket production and innovation. People are worried whether the

[1] European Commission, Case M.8355 – Discovery/Scripps, Commission Decision (Sept. 6, 2017), available at https://ec.europa.eu.
[2] European Commission, Case M.8788 – Disney/Fox, Commission Decision (Nov. 6, 2018), available at https://ec.europa.eu

self imposed changes by Disney and Reliance will not be enforceable in the long run.

Similarly, analysis should focus on the implications that the merger may have on the small advertisers and broadcasters in the market. Advertisers and regional networks may suffer from lack of competition because of the monopoly in the market which then restricts them in regards to the advertisement alternatives to cricket. Reliance-Disney's supremacy in the market may also have adverse effects as suggested by critics, for instance as a result of their supremacy the merger would introduce a "minimum price" strategy with regards to cricket advertisement as even the secondary rights holders would have to purchase it at a premium.

Section 4 of the Competition Act, 2002[3] mentions how no enterprise shall abuse its dominant power. The Act is not against any enterprise which is in a dominant power in its market, however, abuse of such dominant power by way of predatory pricing, market restriction & price squeezing etc. is prohibited under the Act. Close observance must be made to Reliance & Disney's dominant position in the cricket broadcast industry and whether they will abuse this power in the future just like the concerns with the Air India- Vistara[4] merger.

Long-term Implications for the Cricket Broadcasting Market

There is concern regarding the impact that the merger will have on the broadcasting of cricket in India. In addition to these concerns, the approval of the merger raises issue of competitive behaviour of the merged company. Size has always been critical in determining success in the announced bidding processes, with Sony and Zee failing to match Reliance-Disney's size in the past and likely to do so again. The emergence of the merged entity has adverse implications for the consumers as well, as the merged entity would be in a far greater position to limit competition. Also, the growth of the market in general might be stifled by the competitive lack of innovation that is in audience engagement and content dissemination due to the monopoly of one player.

Conclusion

As far as the media and entertainment sector in Indian context is concerned, the combination

[3] Competition Act, No. 12 of 2003, § 4, India Code (2003).
[4] Competition Commission of India, Combination Registration No. C-2023/05/100, Air India-Vistara Merger Order (2023), available at https://cci.gov.in.

of Reliance and Disney offers challenges as well as gives opportunities which can be synergistic in nature. The anti-cartel structure that was imposed by the environment in India was successfully overcome by the merged entity by resolving regulatory issues with voluntary agreements. But its dominance in cricket telecasting raises the need for regular scrutiny to ensure fair competition and the protection of the consumer interest.