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Antitrust - Section 27 ... vs Honda Siel Cars India Ltd. & Ors. ... on 1 October, 2014

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of relevant market, the informant has submitted that FM radio is distinct from other forms of music media for the following reasons: (a) FM radio stations are free-to-air Given that radio is free, a consumer would not consider other forms of paid for entertainment as being substitutable with radio as a source of entertainment. If one were to conduct a Small but Significant Non-transitory Increase in Prices ('SSNIP') test to radio, consumers (i.e. listeners) would not switch to television or mobile VAS. Further, if one were to conduct a SSNIP test on radio, this would not cause advertisers to switch to advertising on television or mobile VAS. This is because the localization and ease of access of radio is far more than the other modes of broadcast and

test

is the seminal case on excessive pricing, has laid down the test for excessive price, first limb of which is that the price bears no reasonable relation to the economic value of the product. This economic value is the value of the product to both the seller and the purchaser. An equitable royalty rate would be one that bears a correlation to the revenue generated by the informant by exercising the license provided to it by the opposite party. In fact a revenue share arrangement has been expressly found to satisfy the United Brands case test as bearing a reasonable relation to the economic value of the service provided by the licensor (Kanal 5 v. STIM). Just as the copyright board has recognized in Second Order, the informant submits that a revenue share structure takes into account the listener and the advertiser, two important components of the radio licensing stream, which a flat fee fails to account for. A flat fee also fails to account for inflation or increasing

| revenues.

Section 256(1) in The Income- Tax Act, 1995
