



Telecom Regulatory Authority of India



**Consultation Paper
on
Issues relating to Media Ownership**

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Written comments on the consultation paper are invited from the stakeholders by 8th March 2013 and counter-comments, if any, by 15th March 2013. The comments may be sent, preferably in electronic form to Mr. Wasi Ahmad, Advisor (B&CS), Telecom Regulatory Authority of India, Mahanagar Doorsanchar Bhawan, Jawahar Lal Nehru Marg, New Delhi - 110002, (Tel No.011-23237922, Fax No.011-23220442; Email: traicable@yahoo.co.in, advbcs@traigov.in). Comments/counter-comments will be posted on the TRAI's website www.traigov.in.

Table of contents

| Chapter | Title | Page No. |
|-----------------|--|----------|
| | Introduction | 4 |
| 1. | Entertainment & Media Industry - A Snapshot | 8 |
| 2. | Present Regulatory Framework | 18 |
| 3. | International Scenario | 29 |
| 4. | Media Ownership/Control | 43 |
| 5. | Cross-media Ownership Rules | 48 |
| 6. | Vertical Integration | 67 |
| 7. | Mandatory Disclosures | 74 |
| 8. | Summary of Consultation Issues | 79 |
| | Glossary | 84 |
| Annexure | | |
| I. | Reference from the Ministry of Information and Broadcasting | 85 |
| II. | Data Tables from RNI | 87 |
| III. | Language-wise Market Share in respective Relevant Markets of Daily Newspaper | 100 |

Introduction

- (i) The media plays an important role in the democratic process of a country, more so in today's technologically fast-moving environment. Its inherent ability to reach the masses implies that it has a vital role in building (and influencing) public opinion and creating awareness. Media also plays a vital role in delineating the economic, political, social and cultural characteristics of a country. Thus, media pluralism is a cornerstone of democracy and this fact should be reflected in the plurality of independent and autonomous media and in diversity of media content. Print, television, radio and new media such as Internet are the most popular media.
- (ii) The Indian media landscape is witnessing several changes that may have far reaching consequences. Major players are looking for expansion of their business interests in various segments of the print and broadcasting sectors leading to horizontal integration of media entities. Also, more and more broadcasting companies owning television channels are venturing into distribution segments of cable television, Direct-to-Home (DTH), Headend-in-the-Sky (HITS) and Internet Protocol Television (IPTV) while distribution segment companies are entering into television broadcasting, leading to vertical integration in the broadcasting sector.
- (iii) The prime motivation for a media company to have presence in different media segments i.e. to have cross media holding is to maximize its reach to the consumers in different demographics with varying media consumption patterns. This also translates into higher economic gains for the companies. However, if entities having cross media holdings occupy dominant positions in different media sectors it may restrict media pluralism.
- (iv) The main driver for vertical integration is economic. Though vertical integration of various entities within a particular sector results in reduction in cost to the company and economies of scale, it often manifests in the form of ills of monopolies viz. higher cost to the consumers, deterioration in quality of service in the long run and deterrence to innovations on account of entry barriers for new players. Vertically integrated companies could also affect plurality adversely, more so, if they hold dominant positions and have cross media holdings.

- (v) In order to ensure media pluralism and counter the ills of monopolies, it is felt that reasonable restrictions need be put in place on ownership in the media sector. The Media Ownership Rules should be so designed so as to strike a balance between ensuring a degree of plurality of media sources and content, and a level playing field for companies operating in the media sector on the one hand and providing freedom to companies to expand, innovate and invest on the other.
- (vi) Most international markets have identified the parameters that define the level of concentration in media ownership and cross media holdings. These parameters are reviewed periodically and the restrictions/ safeguards are modulated from time to time. The international scenario has been discussed in detail in chapter III of the consultation paper.
- (vii) In the year 2008, the Ministry of Information & Broadcasting (MIB) had sent a reference dated 22nd May 2008, seeking the recommendations of the Telecom Regulatory Authority of India (TRAI) for bringing out a policy for the restriction in ownership of companies seeking licenses/ permissions/ registrations under various policy guidelines. Further, in response to a query from TRAI, the MIB, vide its letter dated 26th August 2008, clarified that to examine the issue in its entirety and looking at the increasing trend of print media entering into broadcasting sector, TRAI should also include print media while examining the need for any cross media restrictions vis-à-vis broadcast media.
- (viii) After following an exhaustive consultation process, TRAI, on 25th February 2009, gave its recommendations to the Government covering the issues of horizontal integration, vertical integration, limit on the number of licenses held by a single entity, concentration of control/ ownership across media and control/ ownership across telecom and media companies. TRAI had recommended that the necessary safeguards should be put in place to ensure that plurality and diversity are maintained across the three media segments (Print, Television and Radio). MIB should carry out an analysis based on detailed market study to determine such safeguards. On the issue of vertical integration in the broadcasting sector, TRAI had recommended that the broadcaster should not have 'control' in distribution and vice versa. TRAI further recommended that after working out the required safeguards for horizontal and vertical integration, the mergers and acquisition (M&A) guidelines for the sector may also be put in place to prevent media concentration and creation of significant market power.

TRAI also recommended that no restriction should be imposed on cross control/ownership across telecom and media sectors at this point of time; however, this issue could be reviewed after two years.

- (ix) In 2009, MIB sponsored a study through Administrative Staff College of India (ASCI). The study dealt with the nature and extent of cross media ownership, existing regulatory framework, relevant markets and international experience. ASCI submitted its study report including its recommendations to MIB, in July 2009¹. The ASCI report recommended that cross media ownership rules for broadcasting, print and new media must be put in place since there is ample evidence of market dominance in certain relevant markets. On the issue of vertical integration the report suggested that the cap on vertical holdings should be carefully determined based on existing market conditions. Amongst other recommendations, it also recommended that disclosures regarding cross media affiliations and ownerships should be in the public domain.
- (x) There are no cross media ownership restrictions across Print, Television and Radio in the country. However, in the FM radio sector enabling provisions have been made for compliance of any media ownership rules as and when they are prescribed by the Government. As far as vertical integration of media entities in broadcasting sector is concerned, certain restrictions have been put in place in the guidelines for obtaining license for Direct-to-Home (DTH) platform and in the Head-end in the sky (HITS) policy of the Government dated 26.11.2009.
- (xi) In the FM radio sector, there are certain restrictions on multiple permissions for operating FM radio stations. However companies are allowed to hold permissions/licenses for operating multiple TV channels, DTH services, HITS services, IPTV services etc. or newspapers/publications. The current regulatory framework and TRAI recommendations on the subject have been discussed in detail in Chapter II.
- (xii) MIB has vide reference dated 16th May, 2012 (Annexure-I), requested TRAI to re-look the issue of vertical integration in the broadcasting and TV distribution sector and cross media holdings across the TV, Print & Radio sectors. MIB has requested TRAI to suggest measures that can be put to address vertical integration in order to ensure fair growth of the broadcasting sector. Further, TRAI has been requested to suggest measures with respect to cross media

¹ ASCI report titled 'Study on Cross Media Ownership in India' is available on MIB website www.mib.nic.in

ownerships with an objective to ensure plurality of news and views and availability of quality services at reasonable prices to the consumers.

- (xiii) During the formulation of the consultation paper, an exercise was undertaken by TRAI to collect and collate information regarding shareholding pattern, market share of various TV/ radio channels, newspapers as well as various distribution services offered by various companies operating in the broadcasting and print sector and their cross media holdings. In this effort, fifty four companies/group companies, mentioned in the ASCI report, engaged in broadcasting, print and distribution activities were asked to update information concerning their company, as available in the ASCI report. These companies were also asked to furnish additional information in the format prescribed by TRAI. Apart from this, twenty Registrars of Companies (RoCs) were requested to provide information about these companies, if registered with them. MIB was requested to provide the details of market share and shareholdings etc. of service providers i.e. broadcasters, DTH operator, multi-system-operators (MSOs), FM radio operators etc. Circulation details of various newspapers of different periodicities and languages from the Registrar of Newspapers for India (RNI), MIB were also collected and collated [Annexure-II and Annexure-III].
- (xiv) This consultation paper seeks the comments/views of the stakeholders on the need, nature and level of restrictions and safeguards with respect to vertical integration in the broadcasting and distribution sectors and cross holdings across various media sectors. Chapter I presents a snapshot of the Media & Entertainment Industry. Chapter II enumerates restrictions related to vertical integration, cross media ownerships and disqualifications regarding entry of certain entities in media sector that are either in place as part of license/permission conditions or which have been recommended by TRAI to the Government. Relevant rules and restrictions on the vertical integration and cross-media holdings as prescribed in major international markets have been discussed in Chapter III. Chapter IV focuses on various aspects of media ownership and control. Chapters V and VI discuss rules pertaining to cross-media ownership and vertical integration in the broadcasting sector respectively, and put forth issues for consultation. Requirements of mandatory disclosures and issues for consultation thereon, for the companies operating in the broadcasting and print sectors, have been discussed in Chapter VII. A summary of consultation issues forms Chapter VIII.

Chapter: I

Entertainment & Media Industry- A Snapshot

- 1.1 The Entertainment and Media (E&M) industry broadly consists of four segments i.e. Television, Print, Radio and other media (such as Internet Access, Film, Out of Home Advertising (OOH), Music, Gaming and Internet Advertising). The global E&M market size, in the year 2011, was estimated to be US \$ 1.6 trillion which has grown by 4.9% from year 2010². Currently, India is the 14th largest E&M market in the world with E&M industry revenues contributing about 1% of its GDP. However, industry stakeholders understand and acknowledge that India has the potential to achieve path-breaking growth over the next few years; possibly to reach a size of US \$ 100 billion. The Compounded Annual Growth Rate (CAGR) of the E&M industry, for India, for the period 2011-2016 is predicted to be 17% which is the highest expected CAGR in the international market³ as has been depicted in Table 1.1 below.

| Sl. No. | Country | 2011 (billion US \$) | 2016 (Projected) (billion US \$) | 2011-2016 CAGR |
|---------|-------------|-------------------------|-------------------------------------|-------------------|
| 1 | USA | 363 | 490 | 6% |
| 2 | Japan | 173 | 203 | 3% |
| 3 | China | 89 | 168 | 14% |
| 4 | Germany | 72 | 84 | 3% |
| 5 | UK | 69 | 83 | 4% |
| 6 | France | 61 | 75 | 4% |
| 7 | Italy | 37 | 46 | 4% |
| 8 | Canada | 35 | 51 | 8% |
| 9 | Brazil | 35 | 59 | 11% |
| 10 | South Korea | 34 | 43 | 5% |
| 11 | Australia | 31 | 42 | 6% |
| 12 | Spain | 22 | 27 | 4% |
| 13 | Russia | 20 | 35 | 12% |
| 14 | India | 17 | 38 | 17% |
| 15 | Netherlands | 17 | 21 | 4% |

Table 1.1 E&M industry revenues in selected countries

- 1.2 The average annual spend (per capita⁴) on E&M in India in 2011 was estimated to be US \$ 6.6, as compared to US \$ 22 in China and US \$ 65 in Brazil. While the

² Source: PwC-Global Entertainment and Media Outlook: 2012–2016

³ Source: CII PwC-India Entertainment and Media Outlook 2012

⁴ Calculated as total consumer spend on E&M for each country, divided by its total population, on World Bank estimates.

consumer spend as a percentage of income⁵ is similar across emerging markets including India; there exists a significant growth potential compared to the share of spending on E&M in the mature economies such as USA and UK. The consumer spend as a percentage of per capita GDP is 0.4% in India, which is similar to that in emerging markets such as China, Russia and Brazil. The rising household incomes in India is expected to drive rapid growth in consumer spend on E&M⁶.

- 1.3 Consumer spend⁷ on entertainment and media contributes a major share in the total industry revenue, and has been increasing at a fast pace over the last few years. This growth has primarily been driven by rising disposable incomes and the propensity for households to spend on entertainment activities. The key consumer spend segments⁷ are television subscription (58%), films (19%) and print (17%).
- 1.4 As per industry reports⁶, in India, the revenue of the E&M industry comprising advertisement and subscription revenue, grew from Rs. 68,500 Crore in 2010 to Rs. 80,500 Crore in 2011, an overall growth of 17.52%. This is expected to grow to Rs. 1,76,400 Crore by 2016. The Table 1.2 below depicts the size of various segments of the E &M industry and their respective growth patterns.

| Sl. No. | Media Segment | Revenue (Rs. Crore) 2010 | Revenue (Rs. Crore) 2011 | Year over Year growth | Revenue (Rs. Crore) 2016 (projected) | CAGR (2012-16) |
|---------|---------------|-----------------------------|-----------------------------|-----------------------|--|-------------------|
| 1 | Television | 29,400 | 34,000 | 15.70% | 67,400 | 14.70% |
| 2 | Print | 17,800 | 19,000 | 7.20% | 29,600 | 9.20% |
| 3 | Radio | 1,300 | 1,400 | 10.80% | 3,000 | 16.70% |
| 4 | Others | 20,000 | 26,100 | 30.50% | 76,400 | 22.52% |
| | Total | 68,500 | 80,500 | 17.52% | 1,76,400 | 17.00% |

Table 1.2 Media Segment Revenue Contribution

⁵ Calculated as total consumer spend on E&M for each country, as a percentage of its GDP per capita (total GDP divided by total population). The GDP and per capita population figures are based on World Bank estimates.

⁶Source: CII PwC-India Entertainment and Media Outlook 2012

⁷Consisting of consumer spent on Television, Print, Film, Out of Home Advertising (OOH), Music, Gaming and Internet Advertising

- 1.5 After looking at the overall industry picture, now let us turn to the individual segments.

Television

- 1.6 The television service sector in the country mainly comprises cable TV services, pay DTH services, IPTV services and free to air DTH services as well as terrestrial TV services provided by Doordarshan, a public broadcaster. As far as TV channels are concerned, MIB has as on 20.12.2012, permitted 848 TV channels out of which 31 channels have only uplinking permission and so are not available for viewing in India. Out of the remaining 817 channels, around 650 TV channels are operational and available for viewing in India. Of these operational channels, around 300 TV channels have permission under the News and Current Affairs channels category. As per an industry report⁸, total TV households in India were estimated to be 15.5 Crore at the end of year 2012. Assuming that each household consists of 4 adult members, the reach of television is around 62 Crore (i.e. 15.5 Crore x 4). Thus, the reach of the television media in the total population of the country is clearly significant.
- 1.7 As earlier mentioned in Table 1.1, the total revenue of the Indian television industry in 2011 was estimated at Rs. 34,000 Crore, a year-over-year increase of 15.7% from 2010 to 2011. This increase is driven equally by growth in advertising and growth in subscription revenue, mainly due to the increase in number of TV channels.

Print

- 1.8 The Indian print industry witnessed moderate growth in the year 2011⁹. Its revenue increased from Rs. 17,800 Crore in the year 2010 to Rs. 19,000 Crore in the year 2011, posting a growth of 7.2%. The Indian print industry is projected to grow at a CAGR of 9.2% over the period 2012-2016 and is estimated to reach Rs. 29,600 Crore in 2016 from Rs. 19,000 Crore in 2011. During the year 2010-11, newspaper advertising witnessed higher growth than subscription revenue.
- 1.9 Literacy level is an important factor for the print sector. In the year 2011, the figures for male and female literates in India are 82.14% and 65.5% respectively. In absolute terms, 217,700,941 additional persons have become literate in the decade 2001-2011. The census 2011 indicates that literates in the year 2011 constitute 74

⁸MPA Asia Pacific Pay TV and Broadband market 2012

⁹Source: CII PwC-India Entertainment and Media Outlook 2012

per cent of the total population as compared to 65 per cent in the year 2001. India's literate population base provides a large target audience to the print media.

- 1.10 As per RNI, the total number of registered publications as on 31st March 2011 is 82,222, which includes 14,508 newspapers. A total of 4,853 new publications were registered in the year 2010-11. There was a 6.25 % growth of total registered publications over the previous year. From a language point of view, the largest number of newspapers & periodicals – 32,793 are registered in Hindi, followed by 11,478 in English. From a geographical perspective, the largest number of publications – 13,065 is registered in the state of Uttar Pradesh followed by 10,606 in Delhi.
- 1.11 The magazine industry saw a marginal growth in 2011. The magazine industry has been slowing down for the past few years and the economic slowdown affected it further. Its market size is estimated to be Rs. 2,040 Crore in 2011 as compared to Rs. 1,960 Crore in 2010. This sluggish growth can be attributed to the loss in readership of regional magazines as per readership survey. Traditionally, the vernacular publications have been widely read. However, over the last few years, readership survey indicates that most of these magazines are losing their readership base. The top 10 language dailies have witnessed a cumulative drop of more than 5 lakh readers in the first quarter of 2012 as compared to the fourth quarter of 2011.
- 1.12 The global print industry is suffering from lower circulation. Print advertising has also been affected by the unfavorable macroeconomic conditions such as rise in oil prices, rise in inflation, overall global economic slowdown etc. Drop in spends on advertisement was witnessed in most major categories in 2011. The print industry world-wide, is seeking digital revenue to sustain existing business. This is more prominent in countries with high broadband penetration, where readers have easy access to information on the Internet. Popular news websites are drawing traffic and boosting digital revenue. However, in countries where broadband penetration is low there is less competition from the Internet, benefiting both circulation and print advertising.
- 1.13 India continues to be one of the few markets where print is growing¹⁰. Where, globally, newspapers are facing the dual challenges of falling subscription and advertising revenues and on-line advertising is unable to make up for their losses,

¹⁰ Source: FICCI-KPMG Indian Media and Entertainment Industry Report 2012

Indian newspaper markets continue to grow at a healthy rate based on factors such as rising literacy, current low newspaper penetration, low Internet/broadband penetration and strong home delivery business models.

- 1.14 With the passage of time the influence of digital news is likely to increase and a combination of print and digital will drive growth. Another key growth area will be the regional markets that are steadily gaining importance in the eyes of advertisers. Realizing the huge potential of the regional print market, the national advertisers are moving to such markets. With proliferation of smart-phones and tablets in India, the digital medium can impact the magazine market. Niche content in magazines and hyper-local news in regional and English newspapers are expected to be the focus of the existing players. To ride on positive advertiser sentiment, several newspapers have launched local editions in regional languages. For instance, the Times of India has entered Kerala while The Hindu has launched its third edition in Kozhikode, besides introducing a printing facility in Mohali which will serve the states of Punjab, Haryana, and Himachal Pradesh.
- 1.15 In order to garner additional/alternate revenues, most of the print media players have been investing in the alternate media platforms such as television, radio and the Internet. Tablet versions of newspaper and magazines are also being offered.

Radio

- 1.16 Radio broadcasting has been a primary medium for entertainment, information and education amongst the masses owing mainly to the affordability and terminal portability of radio receivers. Infrastructure wise, All India Radio (AIR), the public broadcaster, has a network comprising 237 stations & around 400 transmitters (149 MW, 48 SW & around 200 FM), which provide radio coverage to 99.14 % of the population and reach 91.79 % area of the country. The FM Radio coverage is about 40% of the territory of India. As on date, 242 private FM radio stations are in operation in 86 cities of the country. Phase-III of the FM radio services expansion plan is intended to extend FM radio's reach to 294 cities with additional 839 FM radio stations thereby boosting the regional growth of FM radio stations. It is expected that post Phase III, the FM radio will cover around 85% of the territory of the country.
- 1.17 Increase in radio listenership has been the major growth driver, with consumers listening to radio through new mediums like mobile phones and live Internet streaming. The streaming of radio programmes on the Internet by both traditional

radio broadcasters as well as Internet-only broadcasters is on the rise. By streaming their programmes online, station operators can widen their reach beyond their signal area and increase their potential to sell to national advertisers. Radio industry grew from Rs. 1,300 Crore in the year 2010 to Rs. 1,400 Crore in the year 2011. The sector is projected to grow to Rs. 3,000 Crore by the year 2016 with a CAGR of 16.70%.

Other Media

- 1.18 As of September 2012, Internet subscribers¹¹ have risen to 2.4 Crore (excluding Internet access by wireless phone subscribers), wherein the number of broadband subscribers is 1.47 Crore, showing an annual growth of approx. 14.42%. Internet penetration¹² is still low in India (2%) as compared to the mature markets such as Hong Kong (41%), France (35%), USA (29%) etc.
- 1.19 As per an industry report¹³, the segment revenue contribution of the other media (i.e. Internet Advertising, Gaming, Music, OOH, Internet Access) grew from Rs. 11,400 Crore in 2010 to Rs. 16,500 Crore in 2011 (growth of 44.73%). By 2016, other media is expected to grow to Rs. 61,500 Crore with a CAGR of 30.10%.

Impact of Technological developments

- 1.20 The discussion on E&M industry would not be complete without considering the impact of the technological developments, especially convergence. Some of the technological advancements that have impacted the media sector are smart phones, 3G and 4G technologies, tablets, video on demand, 3D technologies and Digital Rights Management (DRM)¹⁴. There has been a paradigm shift in the way the content is prepared, carried and delivered.
- 1.21 Historically, telecommunications, information technology (IT) and broadcasting operated independently. The technologies, content/ information transmitted and networks employed by them were distinct and separate. Television, radio, telephones and computers were used for specific different purposes. However, technological developments particularly related to IP technology and increasing use of packet switched digital communications have made converged services possible. The telecom networks can provide access to internet and broadcast content in addition to telecommunication services and similarly with digitization, cable TV networks can also provide Internet access as well as telephone services.

¹¹ Telecom Performance Indicator Report of TRAI (September 2012),

¹² FICCI-KPMG Indian Media and Entertainment Industry Report 2012

¹³ CII-PwC India Entertainment and Media Outlook 2012

¹⁴ DRM or Digital Rights Management is not just one technology but a set of technologies which enables the creator or seller of digital media to control or track the movement / distribution of content, even after it has been sold to the end consumer.

Market related convergence also occurs due to consumer expectation of one-stop service availability, innovative bundling of services and pricing.

- 1.22 In these days of emerging convergence, the print media is rapidly embracing new technological innovations and progressively utilizing e-services by launching e-versions of their print newspapers, magazines and directories etc. Besides this, news and entertainment videos, e-version of the print media are being made available to subscribers on computers and other digital devices such as Smart phones, Tablets, etc.
- 1.23 As another example of progressive convergence, many telecom companies in India are offering interactive broadcast content services such as news & updates, astrology, contests & gaming, Video on Demand (VoD), Internet radio services etc through voice portals. IPTV is also being eyed by many telecom operators as a way to boost the uptake of broadband.
- 1.24 Convergence of customer premises equipment, transmission and access media and service providers reduces the cost of delivery of service and it also increases the level of competition.

Why regulate?

- 1.25 The products of media are not regular commodities as they constitute and shape cultural life of a society and serve as a strong tool to form public perception. Media products play a special role in democracies as media in modern societies provide the arena for public debates, a virtual public space where different issues of public interest can be represented and discussed. Media influences ideas and therefore can swing opinions.
- 1.26 The size of the E&M industry, its current growth trends, its future potential and its power to influence news and views within its reach are the factors that attract, amongst others, large corporates and political parties and organizations to the media business.
- 1.27 There is an increasing trend of influence of political parties/politicians in the media sector. Political parties either directly or indirectly through surrogates control newspapers, TV channels and TV distribution systems. Such TV channels and newspapers would, obviously, promote the leaders and propagate the agenda of these political parties. This tendency is more prevalent in regional markets. There are TV channels directly or indirectly named after political leaders/parties. In the cable TV distribution space, there are complaints that entities backed by

political parties are either taking over operations of other cable TV operators or driving them out of business using other means, thereby virtually extending their monopoly in the entire region. In such a situation, the broadcasters are at the mercy of these politically backed entities for distribution of their channels in that region. Such entities may practically throttle content selectively to suit their own agenda as well as fetter competition in the market, depriving consumers of the benefits of effective competition.

- 1.28 A number of corporate sector entities are entering the media sector. Corporates can use media to bias views and influence policy making in a manner so as to promote their vested interests while generating business revenues for themselves. This has led to emergence of large media conglomerates where single entities/groups have strong presence across different media segments. Table 1.3 below depicts the presence of certain business houses across the different media segments and in their distribution platforms.

| Group of Companies | Broadcasting | | | Distribution Platform | |
|--------------------|--------------|-------------|------------------|-----------------------|-----|
| | Print | TV Channels | FM Radio Station | DTH | MSO |
| Sun TV | √ | √ | √ | √ | √ |
| Essel Group | √ | √ | √ | √ | √ |
| Star India | | √ | √ | √ | √ |
| Ushodaya (Eenadu) | √ | √ | √ | | |
| India Today | √ | √ | √ | | |
| The Times Group | √ | √ | √ | | |
| HT Media | √ | | √ | | |
| ABP Group | √ | √ | √ | | |
| Bhaskar Group | √ | √ | √ | | |
| Jagran Prakashan | √ | √ | √ | | |
| Sakal Media | √ | √ | | | |
| Malayala | √ | √ | √ | | |

| | | | | | |
|--|---|---|---|---|--|
| Manorama Group | | | | | |
| D.B. Corporation Group | √ | | √ | | |
| Anil Dhirubhai Ambani Group | √ | √ | √ | √ | |
| Asianet Communications | | √ | √ | | |
| Table 1.3 Presence of business houses across various segments of media¹⁵ | | | | | |

- 1.29 The inherent conflict of interest which arises from uncontrolled ownership in the media sector gives rise to manifestations such as (i) paid news (ii) corporate and political lobbying by popular television channels (iii) propagation of biased analysis and forecasts both in the political arena as well as in the corporate sector (iv) irresponsible reporting to create sensationalism. These are even more lethal where the ownership/control rests with entities which have both business and political interests. Such ownership/control is not uncommon in the country.
- 1.30 News is meant to provide information that is not only of interest to the public, truthful and factually correct, but also information that is balanced, objective, fair and neutral. This clearly sets apart what is described as “news” from opinions expressed in editorial articles or advertisements and commercials **paid for** by corporate entities, governments, organizations or individuals. When the distinction between news and advertisement gets blurred, advertisements begin to masquerade as news. When such paid news is published or broadcast, the reader or the viewer is misled into believing that an advertisement or a sponsored feature is a news story that is truthful, fair and objective. We have recently witnessed a virtual media war between two national dailies regarding publishing of paid news during coverage of assembly elections in a state.
- 1.31 There have been several instances reported of leading news channels/news-dailies exploiting the power of the media in collusion with corporate houses and politicians in lobbying for influencing policy decisions to favour such corporate

¹⁵ Source: ASCI Report, July 2009

houses. Not very long ago, the story of how corporate houses connived with the media in an attempt to influence political decision making to distort the market in a core infrastructure sector, engaged the nation's attention.

- 1.32 Media outlets owned/controlled by industrialists or business houses have it in their power to propagate biased analysis or forecasts to further their business interests or harm the interests of business opponents, to the detriment of the interests of investors and other stakeholders. Such exercises could vitiate the investment climate in the country and jeopardise economic growth. Similarly, media outlets owned/controlled by politicians/political organisations may also try to influence public opinion in their favour by propagating biased analysis or forecasts e.g. manipulated EXIT polls etc.
- 1.33 Media outlets owned/controlled by political/business entities may try to sensationalise a news item to undermine the interests of their opponents with scant regard for the overall national interest. Instances of such irresponsible reporting and sensationalisation are not uncommon during, say, political elections, when controversial news items/videos/visuals are bandied in the public domain through media outlets.
- 1.34 The ills of uncontrolled media ownership have repeatedly been manifested, nationally as well as internationally, in controversial occurrences. The main casualty is the right of the citizen to know the objective truth. In this context, to quote a recent newspaper article¹⁶, *"..... policies should be implemented to help individuals and the most vulnerable demographics in particular, to filter out biases in information over time. Examples are voters exposed to biased political information, investors exposed to biased analysts forecasts, or patients exposed to biased treatment recommendations..."*
- 1.35 Regulating ownership of media outlets is thus essential in the public interest, as a guarantee of plurality and diversity of opinion. It is, therefore, topical to start talking about regulation of media ownership.

¹⁶ Financial Express, Delhi dated 5.2.2013.

Chapter: II

Present Regulatory Framework

- 2.1 This chapter discusses, restrictions related to vertical integration, cross media ownership and disqualifications regarding entry of certain entities in media sector that are either in place as part of license/permission conditions or which have been recommended to the Government. Restrictions with respect to the number of permissions are also discussed.

A. Vertical Integration

Direct to Home (DTH)

Guidelines for Obtaining License for providing DTH Broadcasting Service in India

- 2.2 In the Guidelines for Obtaining License for providing DTH Broadcasting Service in India, restrictions have been prescribed which restrict the stake that can be held by a broadcasting and/or cable network company in the company owning the DTH platform and vice-versa. The restriction states as under:

“1.4 The Licensee shall not allow Broadcasting Companies and/or Cable Network Companies to collectively hold or own more than 20% of the total paid up equity in its company at any time during the License period. ...”

“1.5 The Licensee company not to hold or own more than 20% equity share in a broadcasting and/or Cable Network Company.”

- 2.3 No restriction on the number of licenses has been prescribed in the said guidelines. The relevant provision of the guidelines state as under:

“ ii) There will be no restrictions on the total number of DTH licenses and these will be issued to any person who fulfils the necessary terms and conditions and subject to the security and technical clearances by the appropriate authorities of the Govt.”

Head end in the Sky (HITS)

Guidelines for providing HITS Broadcasting Service in India

- 2.4 In the Guidelines for providing HITS Broadcasting Service in India dated 26.11.2009, the following provision have been prescribed which restrict the stake

that can be held by a broadcasting and/or DTH licensee company in a company providing HITS based broadcasting services in India:

"1.6 Broadcasting Company(ies) and/or DTH licensee company(ies) will not be allowed to collectively hold or own more than 20% of the total paid up equity in the company (getting license for HITS operation) at any time during the permission period. Simultaneously, the HITS permission holder should not hold or own more than 20% equity share in a broadcasting company and/or DTH license company. Further, any entity or person holding more than 20% equity in a HITS permission holder company shall not hold more than 20% equity in any other broadcasting company(ies) and/or DTH licensee company and vice-versa. This restriction, however, will not apply to financial institutional investors. However, there would not be any restriction on equity holdings between a HITS permission holder company and a MSO/cable operator company."

Further, regarding the manner of determining the shareholding, following has been stated in the said guidelines:

"1.7 While determining the shareholding of a Company or entity or person as per para 1.6 above, both its direct and indirect shareholding will be taken into account. The principle and methodology to determine the level of indirect holding shall be the same as has been adopted in Press Note 2 of 2009 dated 13.2.09 of the Department of Industrial Policy and Promotion under the Ministry of Commerce and Industry for determination of indirect foreign investment."

- 2.5 No restriction on the number of permissions has been prescribed in the Guidelines for providing HITS Broadcasting Service in India. The relevant provision of the guidelines states as under:

"2. There will be no restriction on the total number of HITS permissions and these will be issued to any company which fulfils the eligibility criteria & necessary terms and conditions and subject to the security and technical clearances by the appropriate authorities of the Government."

Frequency Modulation (FM) Radio

Policy Guidelines on Expansion of FM Radio Broadcasting Services through Private Agencies (Phase-III)

- 2.6 In the policy for expansion of FM radio under phase III expansion, certain provisions have been made in respect of the restriction on multiple permissions in a city and total number of frequencies that an entity can hold. The relevant provisions are as under:

Restrictions on multiple permissions in a city and other conditions

- 2.7 Till phase II of the FM radio expansion in the country, no FM operator company was allowed to hold more than one license in a licensed service area i.e. no operator was allowed to operate more than one radio channel in a city. For the phase III expansion, however, this restriction was relaxed and a company could have more than one FM radio channel in a city subject to certain conditions. The relevant provision states as under:

“7.1 Every applicant shall be allowed to run not more than 40% of the total channels in a city subject to a minimum of three different operators in the city and further subject to the provisions contained in para 8. However in case the 40% figure is a decimal, it will be rounded off to the nearest whole number.”

A minimum of three different operators should be present in the city where multiple channels can be allowed to an applicant. This is to ensure that there is plurality and competition in the market.

Total number of frequencies that an entity may hold

- 2.8 In the policy guidelines for phase II expansion of FM radio in India, a restriction that prevented holding of more than 15% of all the channels allotted in the country by any entity was prescribed. Same restriction has been prescribed in the policy guidelines for phase III expansion of FM radio in the country, with certain exceptions for the state of Jammu and Kashmir, North Eastern States and island territories. The relevant provision states as under:

“8.1 No entity shall hold permission for more than 15% of all channels allotted in the country excluding channels located in Jammu and Kashmir, North Eastern States

and island territories. Only city wise limits as mentioned in para 7 will apply to channels located in Jammu and Kashmir, North Eastern States and island territories.

[Note (1): The channels allotted to the following categories of companies would be reckoned together for the purpose of calculating the total channels allocated to an entity:

- a. Subsidiary company of any applicant/allottee;*
- b. Holding company of any applicant / allottee;*
- c. Companies with the Same Management as that of applicant/ allottee;*
- d. More than one Inter-Connected Undertaking with regard to the applicant/allottee.*

Note (2): In respect of existing license/permission/LOI holders, the license(s)/permission(s)/LOI(s) already held by them shall also be taken into consideration for calculating the 15% limit.]”

Mobile TV

Recommendation for Mobile TV

- 2.9 On 23rd Jan 2008, TRAI had given its recommendations to the Government with respect to the Mobile TV services in India. With respect to the stake that can be held by a broadcasting company in a company operating mobile TV services in India, TRAI had recommended as under:

“5.3.20 Any mobile television licensee should not allow any broadcasting company or group of broadcasting companies to collectively hold or own more than 20% of the total paid up equity in its company at any time during the License period. Simultaneously, the mobile television licensee should not hold or own more than 20% equity share in a broadcasting company. Further, any entity or person (other than a financial institution) holding more than 20% equity in a mobile television license should not hold more than 20% equity in any other broadcasting company or broadcasting companies and vice-versa. However, there would not be any restriction on equity holdings between a mobile television licensee and a DTH licensee or a HITS licensee or a MSO/cable operator company.”

- 2.10 As far as number of licenses/permissions to a company providing Mobile TV services is concerned, TRAI has made following recommendation to the Government in response to their reference dated 19.01.2010:

“...no entity can hold more than twenty five percent of the total number of permissions given in the country to prevent monopolization at national level for the first phase. This is in addition to the stipulation that an entity should have only one license per service area.”

- 2.11 In its recommendations, TRAI has suggested that a licensee should get only one carrier channel in a service area, so as to ensure multiplicity of service providers in every service area, subject to spectrum availability.
- 2.12 As far as other media segments are concerned (i.e. broadcasters, MSOs/LCOs, HITS, DTH etc.), there are no restriction on the number of channels/ licenses/ permissions which a company or entity can have. A notable factor in these media segments is that use of scarce resources such as spectrum is not involved at present. Use of spectrum is involved in the case of FM radio and mobile TV, for which TRAI has recommended appropriate restrictions.

B. Cross Media Ownership

- 2.13 Restrictions with regard to cross media holdings/ownerships across print, television and radio sectors of the media have not so far been prescribed by the Government. A reference from the Government in this regard was made to TRAI vide reference dated 22nd May 2008 from MIB. On 25th February 2009, TRAI gave its recommendations to the Government. These recommendations have been discussed in the subsequent paragraphs. Later, MIB also sponsored a study through ASCI; the key recommendations of ASCI are also discussed in subsequent paragraphs.
- 2.14 In the Policy Guidelines on Expansion of FM Radio Broadcasting Services through Private Agencies (Phase-III), issued on 25th July 2011, an enabling provision has, however, been prescribed for putting in place restrictions as and when such restrictions are prescribed by the Government. The relevant provision states as under:

“10.1 If during the currency of the permission period, government policy on cross-media ownership is announced, the permission holder shall be obliged to conform to the revised guidelines within a period of six months from the date of such notification, failing which it shall be treated as non-compliant of Grant of Permission Agreement, and liable for punitive action.

Provided, however, in case the permission holder is not in a position to comply with cross media restrictions for bona fide reasons to the satisfaction of the Ministry of Information & Broadcasting, the Permission Holder would be given an option of furnishing one month's exit notice alongwith a compensation calculated on a pro rata basis of the Non-refundable One Time Entry Fees (NOTEF) amount(s) for the remaining period of permission(s) held by the company."

C. Summary of Recommendations of TRAI on "Media Ownership" dated 25th Feb. 2009

2.15 In response to MIB reference dated 22nd May 2008, TRAI gave its recommendations to the Government that includes the issues of horizontal integration (cross media ownership), vertical integration, limit on the number of licenses held by a single entity, concentration of control/ ownership across media and the control/ ownership across telecom and media companies. The recommendations made by TRAI are as under:

2.16 Cross-media control/ ownership or Horizontal Integration

- i) Necessary safeguards should be put in place to ensure that plurality and diversity are maintained across the three media segments of print, television and radio. It should remain positive in essence.
- ii) A detailed market study and analysis may be carried out by MIB for identifying/determining the safeguards. The results of such analysis may be put in public domain and discussed before finalizing the safeguards.

2.17 Vertical Integration

- i) The broadcaster should not have "control" in distribution and vice-versa.
- ii) Definition of Control: Any entity which has been permitted/ licensed for television broadcasting or has more than 20% equity in a broadcasting company, shall not have more than 20% equity in any Distributor (MSO/Cable operator, DTH operator, HITS operator, Mobile TV service provider) and vice-versa.
- iii) The existing broadcasters who may have "control" in distribution (MSO/Cable/DTH) and entities in the distribution sector who may have similar "control" over broadcasting should be given sufficient time of three years for restructuring.
- iv) For the purpose of putting in place effective safeguards to prevent vertical integration between the broadcasting sector and its distribution platforms as recommended above, the word "entity" be given a broad meaning so as to

include any person including an individual, a group of persons, a public or private body corporate, a firm, a trust, or any other organization or body and also to include “inter-connected undertakings” as defined in the Monopolistic and Restrictive Trade Practices Act, 1969 (54 of 1969).

- 2.18 **Limit on number of Licenses by a single entity:** The current restrictions on number of licenses held by a single entity (including policies and TRAI recommendations on FM Radio and Mobile TV) are adequate for the time being.
- 2.19 **Concentration of Control/ Ownership across Media:** After working out the required safeguards for horizontal & vertical integration, the merger and acquisition guidelines for the sector may also be issued to prevent media concentration and creation of significant market power.
- 2.20 **Cross control/ ownership across Telecom and Media companies:** No restriction should be imposed on cross control/ ownership across telecom and media sectors, at this point of time. The issue could be reviewed after two years.

D. Recommendations of ASCI

- 2.21 As per the recommendations of TRAI, in 2009, MIB sponsored a study through ASCI. The study dealt with the nature and extent of cross media ownership, existing regulatory framework, relevant market and international experience. ASCI submitted its study report titled ‘Study on Cross Media Ownership in India’ (ASCI Report) in July 2009 to the Government. In its report ASCI made following recommendations:
- 2.22 **Cross Media Ownership**
- (i) Cross media ownership restrictions rules must be put in place by the appropriate regulator. There is ample evidence of market dominance in certain relevant markets. Cross media restrictions must be based on a detailed market analysis of well defined relevant markets.
 - (ii) Any cross media rules on ownership must include broadcasting, print and the new media.
 - (iii) The market survey and analysis needs to be made periodically (every 3-4 years) and the ownership restriction/ rules may then be changed accordingly.

- (iv) Disclosure norms that makes cross media affiliation and ownership clear to the viewer need to be publicized.

2.23 Vertical Integration

- (i) Regulations on vertical integration are necessary to ensure that the “must carry” against the “must provide” provisions of the broadcasters are mandatory and non- discriminatory.
- (ii) The appropriate regulator must also be able to monitor compliance and regulate the rate at which access to broadcasting service networks are provided so that the delivery platforms do not block competitions from others.
- (iii) A cap on vertical holdings must be carefully determined. The suggested cap must be based on existing market conditions, and implementable.

2.24 Aligning regulatory framework to market conditions

- (i) The emerging convergence must be taken into account and the regulatory framework for media must be aligned to address competition concerns among the media spectrum. The regulatory framework must be aligned to market realities in terms of convergence and would have to be framed in a holistic manner.
- (ii) A convergence regulator to cover all media access print, broadcasting and telecom must be established.

E. Disqualification of certain entities for entry into Broadcasting and Distribution activities (Recommendations of TRAI dated 12th Nov. 2008 and 28th Dec. 2012)

2.25 Media plays a special role in democracies. It serves as a strong tool to form public perception as it provides the arena for public debates where different issues of public interest can be represented and discussed. Media influences ideas and therefore can swing opinions. It is, therefore, important that an arm’s length distance is ensured between the media and organs of governance, political institutions and other entities which have a profound sway over public opinion. In many developed democracies, certain entities such as political and religious bodies are explicitly debarred under the relevant laws from holding broadcasting

licences. In this regard, TRAI has issued certain recommendations and salient points of these recommendations are as below:

- (i) Political bodies should not be allowed to enter into broadcasting activities.
- (ii) Pending enactment of any new legislation on broadcasting, the disqualifications stated below for political bodies to enter into broadcasting and/or distribution activities should be implemented through executive decision by incorporating the disqualifications into Rules, Regulations and Guidelines as necessary.

“Disqualification of political bodies:

- (a) A body whose objects are wholly or mainly of a political nature;*
- (b) A body affiliated to a body, referred to in clause (a);*
- (c) An individual who is an officer of a body, referred to in clause (a) or (b);*
- (d) A body corporate, which is an associate of a body corporate referred to in clause (a) or (b);*
- (e) A body corporate, in which a body referred to in any of clauses (a) and (b) is a participant with more than a five per cent interest;*
- (f) A body which is controlled by a person referred to in any of clauses (a) to (d) or by two or more persons, taken together;*
- (g) A body corporate, in which a body referred to in clause (f), other than one which is controlled by a person, referred to in clause (c) or by two or more such persons, taken together, is a participant with more than a five per cent interest.”*

- (iii) Religious bodies may not be permitted to own their own broadcasting stations and teleports. However, broadcasting channels may be permitted to carry programmes aimed at the propagation of different religious faiths subject to strict compliance with the applicable content code or programme code, as the case may be.
- (iv) Urban and local bodies, Panchayati Raj bodies and other publicly funded bodies should not be allowed to enter into broadcasting activities.
- (v) The Central Government Ministries and Departments, Central Government owned companies, Central Government undertakings, Joint ventures of the Central Government and the private sector and Central Government funded entities should not be allowed to enter into the business of broadcasting and/or distribution of TV channels.

(vi) State Government Departments, State Government owned companies, State Government undertakings, Joint ventures of the State Government and the private sector, and State Government funded entities should not be allowed to enter into the business of broadcasting and/or distribution of TV channels.

(vii) If the Central Government has already accorded permission to any State Government/State Government owned companies/State Government undertakings/Joint venture of the State Government and the private sector/State Government funded entities to enter into the cable distribution platform, then the Central Government should provide an appropriate exit route.

2.26 While recommending the disqualification of certain entities for entry into broadcasting and distribution activities, TRAI's basic intention was to ensure that power of the media is not exploited by such entities for swaying public opinion in their favour, or for promoting vested political interests and propagating ideologies. However, as briefly discussed in Chapter I, other kinds of entities can also gain such effective control over the media as to be able to exploit its power for their own purposes, often spreading misinformation and compromising public interest. There may be a need to expand the list of entities to which general disqualification would apply. In addition, there is a need to address the problem of surrogates, whereby a disqualified entity may wield media power through another entity over which it has influence, and which does not suffer from general disqualification for entry into the media sector. Grant of license/permission to such a surrogate entity may defeat the very purpose of putting general disqualifications in place. In the circumstances, it may be argued that the licensor should have the power to disqualify an entity from entering the media sector, wherever the licensor is satisfied, based on its own assessment or on the recommendations of the regulator, that the granting of a media sector license to that entity would be detrimental to the public interest. Ofcom, for example, prohibits persons who in its opinion, are subject to undue influence by an otherwise disqualified person.

Issues for consultation:

Q1: In your opinion, are there other entities, apart from entities such as political parties, religious bodies, Government or government aided bodies which have already been recommended by TRAI to be

disqualified from entry into the broadcasting and distribution sectors, which should also be disqualified from entry into the media sector? Please elaborate your response with justifications.

Q2: Should the licensor, either *suo motu* or based on the recommendations of the regulator, be empowered to disqualify any entity from entering the media sector in public interest? For instance, should the licensor or the regulator be empowered to disqualify (or recommend for disqualification) a person who is subject to undue influence by a disqualified person.

Chapter: III

International scenario

- 3.1 Media ownership rules and restrictions have been included in the regulatory framework of several international markets. Many international markets have identified the parameters that define the level of concentration in media ownership and cross media holdings. These parameters are reviewed periodically and the restrictions/ safeguards are modulated accordingly. The media ownership regulations in UK, USA, Australia, Germany, South Africa, Canada, South Korea and France have been studied.
- 3.2 The international markets have prescribed different kinds of restrictions in their jurisdictions depending upon the requirement of the particular country or market. The regulations in the major international markets can be placed in following broad categories:
- A. **Disqualifications:** Restrictions on allowing certain persons/ entities/ organizations to operate in the media sector.
 - B. **Restrictions on domination *within* a media sector**
 - i. **Restrictions on dominance in TV broadcasting:** Restrictions on control of significant percentage of total television audience shares and/or restrictions on holding multiple licenses.
 - ii. **Restrictions on dominance in Radio broadcasting:** Restrictions on control of significant percentage of total television audience shares and/or restrictions on holding multiple licenses.
 - iii. **Restrictions on dominance in Print Media:** Restrictions on control of significant percentage of market share by a single entity in the print media.
 - C. **Restrictions on domination *by* the media i.e. Cross Media restrictions:**
 - i. Restriction on acquiring a license in any media segment in case the person/company holds a license in any other media segment in that particular market/ area e.g. the “Two out of Three” rule i.e. any entity can at most have presence in two out of three media segments (Television, Radio and Newspaper) in the same market/ service area.
 - ii. Restrictions on limit of investment in other broadcasting activities by the holder of a broadcasting license.
 - D. **Restrictions on mergers and acquisitions:** Restrictions on mergers of entities holding significant market power.

3.3 Regulatory provisions based on the above classification in identified international markets are presented in the following paragraphs:

A. Disqualifications

UK

The following entities are prohibited from holding a broadcast license:

- Local Authorities
- Political Organizations
- BBC (British Broadcasting Corporation)& the Welsh Authority
- Advertising Agencies and
- Persons who in the opinion of the Office of Communications (Ofcom) are subject to undue influence by a disqualified person such as to act against public interest
- Religious bodies may not hold licenses for the commercial TV channels, national analogue radio services, public tele-text, additional TV services, TV multiplexes and radio multiplexes¹⁷. In other cases license may be awarded subject to the approval of Ofcom.
- Public funded bodies (i.e. receiving more than 50% of funding from the public purse) cannot hold radio service licenses (except for restricted services).
- BBC subsidiaries may not hold licenses for (a) regional or national commercial television services licenses (b) national, local or restricted radio services.
- National public telecommunications operators with annual turnover in excess of 2 billion pounds may not hold licenses for a national radio service license and commercial television channels.

South Africa

The following disqualifications on foreign control of commercial broadcasting services (foreign ownership) have been prescribed.

- A foreigner may not, whether directly or indirectly---
 - Exercise control over a commercial broadcasting licensee, or
 - Have a financial interest or an interest either in violating shares or paid-up capital in a commercial broadcasting licensee, exceeding 20%
- Not more than 20% of the directors of a commercial broadcasting licensee may be foreigners.

¹⁷TV multiplexes and radio multiplexes are a band of fixed width containing a number of TV/ Radio channels

Germany

- Political parties and organizations are prohibited from holding a broadcast license.

South Korea

- Only South Korean citizens and entities owned by citizens may obtain a license.

B. Restrictions on domination *within* a media segment

a. *Restrictions on domination in Television Broadcasting*

USA

- National TV Ownership: No limit on the number of TV stations a single entity may own nationwide as long as the station group, collectively, does not reach more than 39% of all U.S. TV households¹⁸.
- Local TV multiple ownership: An entity may own two stations in the same DMA (Designated Market Area)¹⁹ if either (1) the service areas of the stations do not overlap or (2) at least one of the stations is not ranked among the top four stations in DMA (based on market share) and at least eight independently owned TV stations would remain in the market after the proposed combination.

Australia

- A person must not be in a position to exercise control of commercial television broadcasting licences whose combined licence area populations exceed 75% of the population of Australia.
- A person must not be in a position to exercise control of more than one commercial television broadcasting licence in the same licence area.
- A person may not hold a directorship in two or more companies which between them exceed these limits. Similarly, anyone who controls a licence or

¹⁸ For the purpose of calculating the national audience reach under this rule, TV stations on UHF channels (14 and above) count less than TV stations on VHF channels (13 and below).

¹⁹ DMA is a region where the population can receive the same (or similar) television and radio station offerings, and may also include other types of media including newspapers and Internet content

licences may not be a director of another company that controls a licence or licences if control of the combination by a single person would be prohibited.

Exceptions: In licence areas where there is only one commercial television broadcasting licence, the Australian Communications and Media Authority (ACMA) may, in certain circumstances, permit that licensee to provide a second commercial television broadcasting service. In licence areas where there are two commercial television broadcasting licences, the ACMA may, in certain circumstances permit these licensees to provide a third commercial television broadcasting licence.

- A person must not:
 - (i) be a director of a company that is in a position to exercise control of a commercial television broadcasting licence; and
 - (ii) be in a position to exercise control of a data casting transmitter licence.

Canada

- Generally, an entity is not permitted to own more than one over-the-air station in one language in a given market. However, the Canadian Radio-television Telecommunications Commission (CRTC) has made a number of exceptions to this policy over the years in recognition of the need for locally focused programming in small cities adjacent to larger centers.

South Africa

No person may---

- Directly or indirectly exercise control over more than one commercial broadcasting service license in the television broadcasting service; or
- Be a director of a company which is, or of two or more companies which between them are in a position to exercise control over more than one commercial broadcasting service license in the television broadcasting service; or
- Be in a position to exercise control over a commercial broadcasting service license in the television broadcasting service and be a director of any company which is in a position to exercise control over any other commercial broadcasting service license in the television broadcasting service.

South Korea

- The rule (Article 8 of the Broadcasting Act) forbids anyone from owning more than 30 percent of stock of a terrestrial broadcasting licensee and a news broadcasting program provider.
- It is illegal to concurrently operate an over-the-air broadcaster, a cable television broadcaster and a satellite broadcaster.
- The Act (Broadcasting Act) proscribes an over-the-air broadcaster, a cable television broadcaster and a satellite broadcaster from owning another over-the-air broadcaster that runs a digital multimedia broadcasting (DMB) service, another cable broadcasting service, and another satellite broadcasting service, respectively.
- A broadcast program provider cannot operate another program provider or own stock in the other provider beyond what a presidential decree²⁰ permits.

France

- There are three limits placed on television ownership; capital share, number of licenses and audience share, and participation in more companies in the same sector:
 - An individual person may not own more than 49% of a national TV channel or 33% of a local channel if the average annual audience is greater than 2.5% of the total audience.
 - If a licensee holds two licenses, then the licensee cannot own more than 15% of the second license and if the licensee owns three licenses then the licensee cannot own more than 5% of the third license.
 - A person may not own more than one analogue license or seven digital licenses.
 - A licensee cannot hold more than two satellite licenses.
 - There is a ban on owning two regional broadcast TV licenses (analogue and digital) or more than one license if the audience area is greater than 6 million.
- Non-EU investment is limited to a 20% share of the capital in terrestrial television service in French language.

²⁰ Currently, the presidential decree of Feb 22, 2008 states that where the ratio comprised of the sum of sales proceeds of a specific broadcasting program provider, together with the sales proceeds of a program provider specially related to the relevant program provider, exceeds 33/100 of the aggregate sales proceeds of the entire program providers, in such cases, the sales proceeds of the program provider engaged in a specialized programming of product presentation and marketing shall not be included in the calculation.

b. *Restrictions on dominance in Radio Broadcasting*

UK

- No restrictions on holding of national analogue radio licenses.
- In case of Digital Multiplexes, at national level, no person can hold more than one national radio multiplex at the same time. However, at the local level, no person can hold two licenses for overlapping radio multiplex services.²¹
- At local level, no person who holds more than two local licenses that overlap and where addition of the acquired license would give rise to that person holding more than 55% of the total points²² available in that area may acquire a further license.
- A person may not acquire a local radio license if he would thus acquire more than 45% of the total points in a relevant area.

USA

Local Radio ownership: The rule imposes restrictions based on a sliding scale that varies by the size of the market:

- In a radio market with 45 or more stations, an entity may own up to eight stations, no more than five of which may be in the same service (AM or FM)
- In a radio market with between 30 and 44 stations, an entity may own up to seven radio stations, no more than four of which are in the same service
- In a radio market with between 15 and 29 stations, an entity may own up to six radio stations, no more than four of which are in the same service
- In a radio market with 14 or fewer radio stations, an entity may own up to five radio stations, no more than three of which are in the same service, as long as the entity does not own more than 50% of all stations in that market.
- Overlap between two stations in different services is permissible if neither of those two stations overlaps a third station in the same service.

Australia

A person must not be in a position to exercise control of:

- More than two commercial radio broadcasting licences in the same licence area.

A person must not be a director of:

- More than two commercial radio broadcasting licences in the same licence area;

²¹ Services are considered overlap when the potential audience for one multiplex exceeds 50% of the potential audience of other multiplexes.

²² Assessment of license overlap and calculation of points involve complex calculations. Points are allocated to particular radio stations according to the level of coverage of potential audience achieved by those stations.

Canada

- In markets with less than eight commercial radio stations operating in a given language, an entity may own or control three stations operating in that language, with a maximum of two stations in any one frequency band.
- In markets with eight stations or more operating in a given language, an entity may be permitted to own as many as two AM and two FM stations in that language.

South Africa

No person may---

- Be in a position to exercise control over more than two commercial broadcasting service licenses in the FM sound broadcasting service;
- Be a director of a company which is, or of two or more companies which between them are, in a position to exercise control over more than two commercial broadcasting service license in the AM sound broadcasting services; or
- Be in a position to exercise control over two commercial broadcasting service licenses in the AM sound broadcasting service and be a director of any company which is in a position to exercise control over any other commercial broadcasting service license in the AM sound broadcasting service.

No person referred above may be in a position to control two commercial broadcasting service licenses in the AM sound broadcasting service, which either have the same license areas or substantially overlapping license areas.

France

- For radio, an entity may not control one or more stations or network(s) if the aggregate audience exceeds 150 million.
- Non-EU investment is limited to a 20% share of the capital of a terrestrial Radio service in French language.

c. Restrictions on dominance in Print

South Korea

- The combined market share of the top three newspapers shall not be more than 60%

- The market share of a single newspaper firm is limited to 30%

France

Non-EU investment is limited to a 20% share of the capital of a daily newspaper in French language.

C. Restrictions on dominance by the media-Cross media Restrictions

UK

- No person can acquire 'channel 3' license²³ if he runs one or more national newspapers having an aggregate market share of 20% or more.
- The holder of a 'channel 3' license may not acquire an interest of 20% or more in a corporate body running one or more national newspapers with an aggregate market share of 20% or more.
- At local level, a person may not acquire a regional channel 3 license if he runs one or more local newspapers having an aggregate market share of 20% or more in the area covered by the regional channel 3 license. Market share is calculated by reference to the circulation for the preceding six months.
- In case of local analogue radio licenses and newspapers or television service licenses, the order appoints a point system which prevents a person holding one or more local newspapers with aggregate market share of 50% or more and holders of channel 3 regional license from holding local analogue radio licenses.
- No single person may hold, a local analogue radio license, a regional channel 3 license whose potential audiences includes 50% of the audience of the analogue radio service and one or more local newspapers which have a local market share of 50% or more in the local coverage area.
- Restriction on national newspapers holding commercial TV licenses.

USA

An entity may directly or indirectly own, operate, or control up to two commercial TV stations (if permitted by the local television multiple ownership rule) and one

²³ UK has two commercially owned national public service TV networks - known as channel 3 and channel 5. As public service channels, and in return for special benefits, the holders of the channel 3 and channel 5 licenses are subject to a number of license conditions not placed on other commercial broadcasters. These additional obligations are designed to ensure that, in return for their special status, the channel 3 and channel 5 license holders contribute to the purposes of public service broadcasting (PSB) defined in section 264 of the Communications Act 2003.

commercial radio station situated as described in local radio ownership rules. An entity may not exceed these numbers, except as follows:

- If at least 20 independently owned media voices would remain in the market post-merger, an entity can directly or indirectly own, operate, or control up to:
 - Two commercial TV and six commercial radio stations (if permitted by the relevant rules) or
 - One commercial TV and seven commercial radio stations (to the extent that an entity would be permitted to own two commercial TV and six commercial radio stations, and to the extent permitted the local radio multiple ownership rule).
- If at least 10 independently owned media voices would remain in the market post-merger, an entity can directly or indirectly own, operate, or control up to two commercial TV and four commercial radio stations (to the extent permitted by the local radio multiple ownership rule).
- In the largest market, an entity may own up to two TV and six radio stations or one TV and seven radio stations.

Australia

- A person must not control:
 - A commercial TV broadcasting license and a commercial radio broadcasting license having the same license area.
 - A commercial television broadcasting license and a newspaper associated with that license area.
 - Or a commercial radio broadcasting license and newspaper associated with that license area.
- If a person is in a position to control a media operation on each of the three regulated platforms in a license area then they are in breach of the rules and the transaction is prohibited. Cross ownership on two platforms is allowed but not on three. This is called, in the Australian context as the two out of three rule.
- No more than two of the three regulated platforms (commercial radio, commercial television and associated newspapers) can be controlled by the same person/organisation in any one license area.

Canada

Generally, the CRTC does not approve transactions that results one entity owning or controlling media outlets in more than two of the following categories in the same market:

- Local radio stations,
- Local television stations and
- Local newspapers.

Thus no single person or entity can control all three types of media

South Africa

- No person who controls a newspaper, may acquire or retain financial control of a commercial broadcasting service license in both the television broadcasting service and sound broadcasting (radio broadcasting) service. A 20% shareholding in a commercial broadcasting service license, in either the television broadcasting service or sound broadcasting service, is considered as constituting control.
- No person who is in a position to control a newspaper may be in a position to control a commercial broadcasting service license, either in the television broadcasting service or sound broadcasting service, in an area where the newspaper has an average ABC²⁴ circulation of 20% of the total newspaper readership in the area, if the license area of the commercial broadcasting service license overlaps substantially²⁵ with the said circulation area of the newspaper.

Germany

- The rules provide for intervention if a company's media holdings (including newspapers) comprise more than 30% of viewer share in a year. This is considered a predominant impact on public opinion. For television, the share is set at 25% of viewers in a given year for a dominant position. There is a system of assessment that provides percentage allowances for regional programming, independently produced programming, and shares of a company's ownership reducing the impact of the aforementioned percentage thresholds.
- Some German states have fairly strict rules regarding double monopolies (where locally dominant publishers control local commercial radio stations), which is quite common in parts of Germany.

²⁴ Audit Bureau of Circulations of South Africa (ABC)

²⁵ Substantial overlap means an overlap by 50% or more.

- As per cross-media (press/broadcasting) regulation, there are no nationwide restrictions.
- There are also no specific restrictions on cross ownership between radio and television beyond the principle of predominate impact.

South Korea

- The simultaneous ownership of broadcasting stations and newspapers and news agencies is prohibited.
- A daily newspaper cannot operate a broadcasting station or a program provider simultaneously if the gross amount of assets exceeds 3 trillion won²⁶ (Article 8(3) of the Broadcasting Act).
- The corporate owner of a daily newspaper or a news agency cannot own the stock or equity shares in cable broadcasting or satellite broadcasting companies.

France

An owner may not be involved in more than two of the following at the national level:

- TV audience area of 4 million people
- Radio audience area of 30 million people
- Cable audience area of 6 million people
- Exceeds 20% share of the national circulation of daily newspapers
- Further restrictions are noted at the local level:
 - Owning a national or local TV license for the area,
 - Owning one or more radio licenses with cumulative audiences of more than 10% for that area,
 - Owning a cable network for the area and
 - Editorial or other control of daily newspapers in the area.

D. Restrictions on Mergers and Acquisitions

USA

- Dual TV Network ownership: The rule prohibits merger among any two or more of these television networks: ABC, CBS, Fox and NBC.

²⁶ 'won' is the currency of South Korea.

Australia

- No new transactions can proceed unless a minimum of 5 independent media operations or groups are maintained in metropolitan markets and four in regional markets (unless a lesser number were present before the transaction).

Canada

- Generally, the CRTC will not approve a transaction resulting in one entity controlling more than 45% of total television audience share.
- The CRTC will carefully examine transaction resulting in one entity controlling between 35% and 45% of the total television market share.
- The CRTC will expeditiously process transaction resulting in one entity controlling less than 35% of the total television audience share.
- CRTC will not approve a transaction resulting in one entity being able to control all BDUs in any market or otherwise effectively controlling programming distribution in that market.
- Generally, the CRTC will not approve transactions that results one entity owning or controlling media outlets in more than two of the following categories in the same market:
 - Local radio stations,
 - Local television stations and
 - Local newspapers.
- CRTC will not approve a transaction resulting in one entity being able to control all BDUs (Broadcasting Distribution Undertakings) in any market or otherwise effectively controlling programming distribution in that market.

Germany

- In case of print media, the threshold for notification of mergers is lower for the press than the other sectors, namely DM²⁷ 25 million rather than DM 500 million.

France

- Companies are not allowed to acquire a new newspaper if the acquisition boosts their total daily circulation over 30%.

²⁷Deutsche Mark (DM) was the official currency of West Germany (1948–1990) and Germany (1990–2002) until the adoption of the euro in 2002.

- While the Competition authorities are obliged to consult with the CSA²⁸ on mergers and acquisitions in media matters it is the sole responsibility of the CSA to monitor mergers and cross media ownership. Shareholders have the obligation to report to the CSA when their holding exceeds 10% so the CSA can effectively monitor share capital ownership. As per French legislation, cross-media mergers are regulated by Law 86-1067 (Loi L  otard) which was revised on 10 July 2004²⁹.
- According to article 41.1, “at national level, an individual or legal entity can be involved only in two of the following areas: one or more television licences for analogue or digital terrestrial channels reaching four million residents; one or more terrestrial radio services reaching 30 million people; daily papers that have a market share of more than 20 percent of the national circulation”.

²⁸ CSA : Conseil Sup  rieur de l’Audiovisuel (CSA) or Supreme Council of Audiovisual : created by the Act of 17th Jan 1989, CSA is to ensure the freedom of audiovisual communication in France. The CSA also manages issues of media ownership and concentration.

²⁹ <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000006068930&dateTexte=20110823> accessed on 1.02.2013

3.4 The table below summarises by category the presence of relevant restrictions on media ownership prescribed in various international markets:

| Parameters ↓ | Countries-→ | UK | USA | Australia | Canada | South Africa | Germany | South Korea | France |
|---|--|----|-----|-----------|--------|-----------------|---------|----------------|--------|
| Disqualifications | | √ | | | | √ | √ | √ | |
| Restrictions on domination <i>within a</i> media segment | Restrictions on dominance in Television Broadcasting | | √ | √ | √ | √ | | √ | √ |
| | Restrictions on dominance in Radio Broadcasting | √ | √ | √ | √ | √ | | | √ |
| | Restrictions on dominance in Print | | | | | | | √ | √ |
| Restrictions on domination <i>by the</i> media-Cross Media Restrictions | | √ | √ | √ | √ | √ | √ | √ | √ |
| Restrictions on Mergers and Acquisitions | | | √ | √ | √ | | √ | | √ |

Chapter: IV

Media Ownership/Control

A. Why media ownership/ control matters

- 4.1 Media markets, in the pursuit of efficiency through economies of scale and network effects, generally have a tendency to move away from the competitive form of organization towards oligopoly or monopoly. Such a situation raises concern as the efficiency that results from large economies of scale also leads towards a smaller number of competitors and can degenerate into inefficient abuse of monopoly power. Monopoly in media markets is however quite different in its impact from monopoly in products and services markets. Concentration in media markets, apart from the usual economic effects, can profoundly influence opinion and ideas.
- 4.2 Empirical evidence suggests that concentration in media markets – fewer independent owners of media outlets— has a negative effect on diversity. The economic interests of media owners influence their advertising, programming choices, and how they provide access to information.
- 4.3 Media ownership is a source of debate, comments and government review in many countries around the world. Media ownership is regulated differently to ownership of most other business activities because of the media's place in a healthy democracy. They provide the range of voices and opinions that informs the public, influences opinion, and supports political debate. Regulation to ensure a plurality of media ownership is therefore particularly aimed at ensuring a diversity of news provision. There is a widely held belief that media outlets concentrated in the hands of too few entities could threaten access of diverse viewpoints.
- 4.4 The 1st Report (2007-08) of the Select Committee on Communication (House of Lords), UK, has listed the ways in which ownership can impact on news output, which include the following:
 - (i) Direct intervention by an owner
 - (ii) Indirect influence of an owner through the appointment of an editor who shares his views

- (iii) The influence of the business approaches that an owner can take different approaches to journalism
- 4.5 It is not necessary for an owner to give a direct instruction in order to influence content. There are many ways in which owner can influence a newspaper without giving a downright instruction. More common is the indirect influence that an owner can have. Usually the appointment of a newspaper's editor is down to the owner of that paper. This gives the owner a clear mechanism of influence over his title's editorial agenda. Once an editor is in place it is usually the owner who has the power to fire him so even when the editor and owner have different views there is considerable incentive for the editor to avoid upsetting his owner.
- 4.6 Further, some owners take a long view of the need for investment while others take a short-term view of profits. An owner's approach to profit making and investment in news gathering can affect news content in broadcasting as well. Broadcast news output may be affected by cost-cutting measures, targeted investment, and retrenchment. A more subtle, but potentially more powerful influence, which can emanate from the particular vision of an owner or an editor-in-chief, is manifested through what kind of journalism is invested in, and what kinds of stories are followed or not followed. According to the Select Committee, different ownership structures could have different impacts on journalism and content.

B. Concept of 'Entity' with reference to media ownership/ control

- 4.7 TRAI in its recommendations on Media Ownership dated 25.02.2009, inter-alia, observed that there is a need to move from 'company based' restrictions to a system of 'entity based' safeguards in view of the fact that "...The restrictions based on company holding can be easily subverted by creating another company by the same entities. In fact today even though there is a control/ ownership restriction between DTH operators and the broadcasters the effectiveness of these restrictions in the present form is questionable."
- 4.8 In commercial parlance, an entity generally denotes an organization that has an identity separate from those of its members. Thus a sole proprietorship, an association of persons, a body of individuals, a partnership firm, a corporate body or company, a public sector business enterprise etc. are all entities.

- 4.9 An entity would include individuals, group of individuals, companies, firms, trusts, undertakings and inter-connected undertakings where interconnected undertaking is as defined in the MRTPC Act, as given below.
- 4.10 An inter-connected undertaking means two or more undertakings which are inter-connected with each other in any of the following manner, namely:-
- (i) if one owns or controls the other,
 - (ii) where the undertakings are owned by firms, if such firms have one or more common partners,
 - (iii) where the undertakings are owned by bodies corporate –
 - (a) if one body corporate manages the other body corporate, or
 - (b) if one body corporate is a subsidiary of the other body corporate, or
 - (c) if the bodies corporate are under the same management, or
 - (d) if one body corporate exercises control over the other body corporate in any other manner;
 - (iv) where one undertaking is owned by a body corporate and the other is owned by a firm, if one or more partners of the firm – (a) hold, directly or indirectly, not less than 50% of the shares, whether preference or equity, of the body corporate, or (b) exercise, control, directly or indirectly, whether as director or otherwise, over the body corporate,
 - (v) if one is owned by a body corporate and the other is owned by a firm having bodies corporate as its partner, is such bodies corporate are under the same management
 - (vi) if the undertakings are owned or controlled by the same person or by the same group
 - (vii) if one is connected with the other, either directly or through any number of undertaking which are inter connected undertakings within the meaning of one or more of the foregoing sub-clauses.
- 4.11 Explanation: - Two bodies corporate shall be deemed to be under the same management
- (i) if one such body corporate exercises control over the other or both are under the control of the same group or any of the constituents of the same group; or
 - (ii) if the Managing Director or manager of one such body corporate is the MD or manager of the other; or

- (iii) if one such body corporate holds not less than 1/4th of the equity shares in the other or controls the composition of not less than 1/4th of the total membership of the Board of directors of the other; or
- (iv) if one or more directors of one such body corporate constitute, or at any time within a period of 6 months immediately preceding the day when the question arises as to whether such bodies corporate are under the same management, constituted whether independently or together with relatives of such directors or the employees of the first mentioned body corporate or 1/4th of the directors of the other; or
- (v) if the same individual or individuals belonging to a group, while holding whether by themselves or together with their relatives not less than 1/4th of the equity shares in one such body corporate also hold whether by themselves or together with their relatives not less than 1/4th of the equity shares in the other; or
- (vi) if the same body corporate or bodies corporate belonging to a group, holding, whether independently or along with its or their subsidiary or subsidiaries, not less than 1/4th of the equity shares in one body corporate, also hold not less than 1/4th of the equity shares in the other; or
- (vii) if not less than 1/4th of the total voting power in relation to each of the two bodies corporate is exercised or controlled by the same individual whether independently or together with his relatives or the same body corporate whether independently or together with its subsidiaries; or
- (viii) if not less than 1/4th of the total voting power in relation to each of the two bodies corporate is exercised or controlled by the same individual belonging to a group or by the same bodies corporate belonging to a group, or jointly by such individual or individuals and one or more of such bodies corporate; or
- (ix) if the directors of the one such body corporate are accustomed to act in accordance with the directions or instruction of one or more of the directors of the other, or if the directors of both the bodies corporate are accustomed to act in accordance with the directions or instructions of an individual, whether belonging to a group or not

C. Measure of Media Ownership/ Control

4.12 Before we can frame rules with regard to media ownership, we need to have a clear and transparent definition of what constitutes ownership/control.

- 4.13 TRAI in its recommendations on Media Ownership dated 25.02.2009, inter-alia, recommended the following with regard to vertical integration in a media segment:
- (i) The broadcaster should not have “control” in the distribution and vice-versa.
 - (ii) Definition of Control: Any entity which has been permitted/ licensed for television broadcasting or has more than 20% equity in a broadcasting company, shall not have more than 20% equity in any Distributor (MSO/Cable operator, DTH operator, HITS operator, Mobile TV service provider) and vice-versa.
- 4.14 Effectively, TRAI had maintained that any entity owning more than 20% of the paid-in-equity of a broadcasting company/ distributor company should be regarded as exercising ‘control’ over that company. The same definition may also be extended for the business entities to measure control in cross media situations.
- 4.15 It is worth mentioning that in the telecommunication sector, the license agreement for unified access services (UASL) requires that no single company/ legal person, either directly or through its associates, shall have substantial equity holding in more than one licensee company in the same service area for the Access Services where ‘substantial equity’ means ‘an equity of 10% or more’.
- 4.16 The control rights of ownership could also be defined in terms of an owner’s ability to influence the way in which the undertaking is run as against the cash-flow rights of ownership represented by equity holding. In some countries, ownership of/ control over a media outlet is measured by the number of directors represented on the board of the undertaking.

Issues for consultation:

- Q3: Should ownership/ control of an entity over a media outlet be measured in terms of equity holding? If so, would a restriction on equity holding of 20% (as recommended by TRAI in its recommendations on Media Ownership dated 25th Feb 2009) be an appropriate threshold? Else, please suggest any other threshold value, with justification?**
- Q4: In case your response to Q3 is in the negative, what other measure(s) of ownership/ control should be used? Please support your view with a detailed methodology to measure ownership/ control over a media outlet.**

Chapter: V

Cross Media Ownership Rules

A. Right to Freedom of Speech and Expression

- 5.1 Article 19 (1) of Indian Constitution provides that all citizens have the right to freedom of speech and expression. Freedom of Speech and expression means the right to express one's own convictions and opinions freely by words of mouth, writing, printing, pictures or any other mode.
- 5.2 The Hon'ble Supreme Court in the case titled Union of India through Secretary, Ministry of Information and Broadcasting vs. Cricket Association of Bengal and ANR, inter-alia, observed the following:

"...True democracy cannot exist unless all citizens have a right to participate in the affairs of the polity of the country. The right to participate in the affairs of the country is meaningless unless the citizens are well informed on all sides of the issues, in respect of which they are called upon to express their views. One-sided information, disinformation, misinformation and non-information all equally create an uninformed citizenry which makes democracy a farce when medium of information is monopolised either by a partisan central authority or by private individuals or oligarchic organisations... Hence to have a representative central agency to ensure the viewers' right to be informed adequately and truthfully is a part of the right of the viewers under Article 19 [1] (a)."

- 5.3 Clearly, ensuring plurality of viewpoints is an imperative for protecting the Right to Freedom of Speech and Expression.

B. Viewpoint Plurality

- 5.4 Viewpoint pluralism may be defined to mean ensuring fair, balanced and unbiased representation of a wide range of opinions. In democracies, pluralism is a guiding principle which permits the peaceful coexistence of different interests, convictions and lifestyles. Citizens and consumers receive the information they need through media including newspaper, television, radio and online sources. Viewpoint plurality contributes to a well functioning democratic society by making diverse viewpoints available to the citizens and consumers and by preventing any one media owner or voice to exert too much influence over public opinion.

- 5.5 The need for viewpoint plurality arises from the premise that in the marketplace of ideas, the readers, viewers and listeners seek to read, view and listen to diverse opinions. Evidently, viewpoint plurality would not be possible if there is a presence of media dominance across various media segments viz. print, television and radio. In case an entity owns a newspaper, television channel and radio channel, it is likely that the consumers would get same or similar views across the three forms of media. Such a situation would be undesirable from the standpoint of viewpoint plurality and therefore many countries have laid down cross media ownership rules.

C. Cross Media Ownership

- 5.6 Cross media ownership is the ownership of multiple media businesses by a person or entity. These businesses may include print, television, radio and various online entities. When a person or entity owns any two of these media outlets, it is considered to be involved in cross media ownership. Equity holding in a company is a commonly used measure of ownership/ control in a company. Equity holding serves as a quantifiable measure which can be both monitored and controlled.
- 5.7 As per the report³⁰ submitted by ASCI to the MIB, Government of India, “...cross media ownership is prevalent in the country...”. Cross media ownership by some of the business houses in India was depicted in Table 1.3 in Chapter I.
- 5.8 From the table referred to above, it is amply clear that cross media ownership is prevalent in the country. Empirical evidence available in the academic and trade literature suggests that concentration in media markets i.e. fewer independent owners has a negative effect on viewpoint plurality as it allows the media owners to exert an unwieldy heightened influence on public opinion. In such a scenario, the media owners may influence public opinions in their favour and prevent counter views from reaching the general public.
- 5.9 On the other hand, plurality in media ownership is likely to provide a multitude of perspectives on current affairs. There appears to be a strong correlation between media ownership plurality and viewpoint plurality and, therefore, media ownership plurality may be taken as a proxy for viewpoint plurality. In the

³⁰Report titled ‘Study on Cross Media Ownership in India’, Administrative Staff College of India, July 2009

following discussion, media concentration, which is opposite of media ownership plurality, has been regarded as a metric for measuring media plurality.

- 5.10 The Standing Committee of the Parliament on IT has noted that the issue of restrictions on cross media ownership merits urgent attention and needs to be addressed before it emerges as a threat to our democratic structure. Many countries have already laid down rules to restrict cross media ownership. However such rules are generally work-in-progress in the sense that those are revised as and when needed.
- 5.11 The real challenge in devising rules for media ownership emanates from its dual role – as a profit maximization enterprise and as the ‘fourth estate’ with a commitment to dissemination of information for the benefit of the public. From a business point of view, media consolidation has undeniable advantages. It allows for economies of scale which enables media companies to absorb the costs of content and distribution over a large volume of revenue. This in turn allows companies to invest in better resources such as talent and technical equipment. However, efficiency that results from large economies of scale also leads towards small numbers of competitors and can degenerate into inefficient abuse of monopoly power. It is understood that media markets exhibit high first copy costs or high fixed costs. The weak competition that results from the first copy/ non-substitutability characteristics allows owners to earn monopoly profits and to use monopoly rents to pursue their personal agendas. It is worth mentioning that the Federal Appeals Court for the District of Columbia, USA clearly stated that public policies to promote a more diverse media landscape are constitutional, even if they reduce economic efficiency.
- 5.12 In view of the preceding discussion, the rules to restrict cross media ownership should essentially strike a balance between the following twin objectives:
- (i) to ensure a degree of plurality and
 - (ii) to provide freedom to companies to expand, innovate and invest.
- 5.13 As discussed earlier, the first objective is vital for democracy while the second one benefits citizens and consumers by providing a basis for delivering higher quality programmes, greater creativity and more risk taking.
- 5.14 The need for restriction on cross media ownership arises only if there is a concentration due to cross media ownership and, therefore, it would be necessary

to determine the extent of cross media ownership in the country prior to devising rules to restrict cross media ownership.

D. Extent of Cross Media Ownership and Concept of Relevant Market

- 5.15 As diverse cultural, lingual and social settings are present in India, determination of the extent of media concentration due to cross media ownership requires a careful examination. In India there are more than 82,000 publications and over 800 television channels which are in different /multiple languages. For a person who knows only Telugu language, only Telugu publications and Telugu television channels are relevant and not the entire set of publications and television channels available in the country. With a view to identify actual competitors in various media markets, it would be appropriate to invoke the concept of 'relevant market' to determine the extent of cross media ownership in the country.
- 5.16 The concept of 'relevant market' has the following two dimensions viz.
- (i) Relevant product market and
 - (ii) Relevant geographic market.
- 5.17 The 'relevant geographic market' means a market comprising the area in which the conditions of competition for supply of goods or provision of services or demand of goods or services are distinctly homogenous and can be distinguished from the conditions prevailing in the neighbouring areas.
- 5.18 The 'relevant product market' means a market comprising all those products or services which are regarded as interchangeable or substitutable by the consumer, by reason of characteristics of the products or services, their prices and intended use;
- 5.19 For a particular medium, its relevant market is the set of consumers who reside in a geographical area where that media is available to them and who can avail or consume it. The twin dimensions of the relevant market for media are as below:

(1) Relevant Product Markets for Media

- 5.20 A media market may be segregated into (i) Carrier (ii) Content and (iii) distribution platforms. Within any medium e.g. television, radio and newspaper,

there are a variety of genres³¹ of the programmes e.g. news and entertainment. Each one of these genres is potentially relevant to media plurality. However, it is important to have clarity as to which of these genres should be included in the present exercise of devising ways and means to ensure viewpoint plurality. Traditionally, most of the countries have focused on news and current affairs as news and current affairs provide the greatest potential to inform citizen and ensure an effective democratic process. From a consumer's standpoint also, news and current affairs remain to be the most important genres in both societal and personal set-ups.

Issue for consultation:

Q5: Should only news and current affairs genre or all genres be considered while devising ways and means to ensure viewpoint plurality? Please elaborate your response with justifications.

5.21 Generally, people access news and entertainment from television, print media and radio. These media segments are substitutable though the appeal of each media segment is distinct owing to their unique characteristics as described below:

- (i) **Television:** Television is apparently the most powerful medium as it delivers an immersive audio-visual experience of the news and entertainment.
- (ii) **Print Media viz. Newspaper and magazines:** Newspapers and magazines provide in-depth analysis and reflections on events helping citizens to understand issues.
- (iii) **Radio:** Radio is a convenient medium for news and entertainment which can be listened to whilst doing something else.

5.22 It is worth mentioning that at present, only those radio channels which are under the control of the public broadcaster i.e. All India Radio (AIR) can provide news.

5.23 In the recent past, the consumption of online media has become significant and it is steadily growing. As a result of the growth of telecommunication technology and progressive migration of new media into digital markets, the online media has evolved rapidly and has witnessed a steep rise in its consumption. As per the report of the Indian Readership Survey (IRS 2012, Q2), Internet users have shown a half yearly growth rate of 35%. Apparently, online media has the potential to make

³¹ Various Genres are News & Current Affairs, General Entertainment (Hindi), General Entertainment (English), General Entertainment (Regional), Sports, Infotainment, Music, Kids, Movies, Lifestyle, Religious/ Devotion.

a strong positive contribution to plurality by way of making available diverse view points and thereby reducing the ability of any one voice to dominate. However, it has been observed that many popular websites are provided by the existing media owners as an extension of their existing services. In this regard, it is worth mentioning that in spite of rapid growth in the consumption of online media, most people in India still obtain their news and entertainment from the traditional sources viz. television, newspaper & magazine and radio.

Issue for consultation:-

Q6: Which media amongst the following would be relevant for devising ways and means of ensuring viewpoint plurality?

- (i) Print media viz. Newspaper & magazine**
- (ii) Television**
- (iii) Radio**
- (iv) Online media**
- (v) All or some of the above**

(2) Relevant Geographic Markets for Media

5.24 From the yardstick of homogenous conditions of competition prevailing in an area, which can be distinguished from the conditions prevailing in the neighbouring areas, regional markets based on the vernacular languages appear to be most appropriate relevant geographic markets for media. Thus, there would be a relevant market corresponding to various vernacular language in which the available media outlets would require to be examined. On the other hand, English language media which is consumed across the nation would require to be examined at national level.

5.25 In view of the preceding discussion, the entities controlling the following media outlets need to be examined:

- (i) Relevant Market – National Level: Media in English language**
- (ii) Relevant Market – Regional Level based on vernacular languages: Media in various vernacular languages**

5.26 Clearly there would be several relevant markets in India, distinguishable from one another on the basis of vernacular languages spoken in different parts of the

country. In India, there are 22 official languages³² and more than 1500 dialects. Accordingly, it would be important to have clarity as to which of the languages should be considered in the present exercise. The study report of ASCI has focused on the following eight regional languages apart from English language which was considered on national level:

- (i) Bengali
- (ii) Hindi
- (iii) Kannada
- (iv) Oriya
- (v) Malayalam
- (vi) Marathi
- (vii) Tamil and
- (viii) Telugu

Issues for consultation:

Q7: Should the relevant markets be distinguished on the basis of languages spoken in them for evaluating concentration in media ownership? If your response is in the affirmative, which languages should be included in the present exercise?

Q8: If your response to Q7 is in the negative, what should be the alternative basis for distinguishing between various relevant markets?

E. Methods of Measuring Concentration in Media Ownership in Relevant Markets

5.27 In order to measure concentration in media ownership, we may follow the following steps:

- (i) Measuring market share of any media outlet in a relevant market
- (ii) Measuring market share of an entity in a media segment of a relevant market
- (iii) Measuring concentration in a media segment of a relevant market
- (iv) Measuring overall concentration in a relevant market

³²The official languages in India are Assamese, Bengali, Bodo, Dogri, Gujarati, Hindi, Kannada, Kashmiri, Konkani, Maithili, Malayalam, Manipuri, Marathi, Nepali, Oriya, Punjabi, Sanskrit, Santhali, Sindhi, Tamil, Telugu and Urdu.

5.28 The afore-mentioned steps may be described as below:

(1) Measuring share of any media outlet in a relevant market

5.29 Towards measuring the share of various media outlets in a relevant market, it would be appropriate to first identify a suitable metric for measuring the share. Intuitively, it would not be sufficient to merely count the number of available media outlets in the media market but also their level of consumption and relative ability to influence and inform public opinion. One may contend that not all media outlets contribute to plurality simply because they are there and regardless of size of the population that reads/watches/listens to them.

5.30 Level of consumption of any media outlet may be measured in terms of the number of people using the media outlet and the frequency or the time they spend consuming it. The following metrics are generally used for measuring relative level of consumption of a media outlet:

- (i) **Volume of Consumption:** Volume of consumption may be measured in term of minutes of viewing, listening and reading in case of television, radio and print media outlets respectively.
- (ii) **Reach:** Reach provides an indication of the percentage of people who are exposed to a media outlet in a given period of time e.g. the number of people who have watched at least 'x' minutes of a specific television channel in a given time period.
- (iii) **Revenue:** Media industry is termed as a two sided market with revenue streams coming from (i) advertising revenue and (ii) subscription revenue. Thus media outlets link the markets for audience and market for advertising. In economic analysis, revenue is considered as a measure of consumption. However, the relationship between revenue and ability to exert influence on public opinion may not be direct.

5.31 Reach of a media outlet can measure the degree to which there is a potential diversity of viewpoints consumed by the population. Volume of consumption is a popular method of measuring level of consumption of television channels. However, in case no authentic measures of volume of consumption and reach are available in a relevant market, revenue may be used to measure relative level of consumption of a particular media outlet.

5.32 TRAI has undertaken an exercise to collect information regarding shareholding pattern, market share of various broadcasting channels, newspapers as well as

various distribution services offered by various companies operating in the broadcasting and print sector and their cross media holdings. In this regard, the following information has been received:

- (i) **Print Media:** Circulation details of various newspapers in the Country have been received from the office of Registrar of Newspapers for India (RNI). However shareholding pattern of the companies could not be gathered.
- (ii) **Broadcasting Media:** Shareholding pattern of some of the broadcasting companies has been received. Also, the details of broadcasting channels owned/ controlled by the companies, genres and percent market share in the relevant language market has been received from some of the broadcasting companies.

5.33 Most of the broadcasters use ratings given by the media rating agency- TAM Media Research as a measure of consumption of various programmes on their television channels. Similarly, RAM ratings are used as a measure of consumption of radio programmes. However, doubts have been raised in the past on the correctness of such ratings.

Issues for consultation:

Q9: Which of the following metrics should be used to measure the level of consumption of media outlets in a relevant market?

- (i) Volume of consumption
- (ii) Reach
- (iii) Revenue
- (iv) Any other

Please elaborate your response with justifications.

Q10: In case your response to Q9 is 'Any other' metric, you may support your view with a fully developed methodology to measure the level of consumption of various media outlets using this metric.

5.34 The market share of a media outlet in a relevant market may be measured by dividing the level of consumption of the media outlet in the relevant market *by* the total consumption of that media segment in that relevant market. For example, if the level of consumption of a media outlet 'A' is x in a relevant market where total

consumption of that media segment is y , the market share of the media outlet 'A' in the relevant market = x/y .

(2) Measuring market share of an entity in terms of its ownership /control over media outlets in a media segment of a relevant market

5.35 The power of a media outlet to influence ideas and opinions is basically wielded by the entity that owns /controls it. The market share of an entity in a media segment is therefore nothing but the market share of the outlet(s) that he owns/controls. By adding up the market share of each media outlet owned by an entity in a particular media segment in the relevant market, we may arrive at the market share of the media entity in that media segment in the relevant market.

5.36 For example, If an entity 'X' owns three newspapers and two TV news channels in a relevant market with the following market shares:

| Media outlet | Market Share |
|----------------------------|--------------|
| Newspaper-1 | 12% |
| Newspaper-2 | 7% |
| Newspaper-3 | 3% |
| Television News channel-1 | 15% |
| Television News Channel -2 | 9% |

5.37 In this case, the market share of 'X' in print media segment = $12\% + 7\% + 3\% = 22\%$, and the market share of 'X' in television media segment = $15\% + 9\% = 24\%$.

(3) Measuring concentration in a media segment of a relevant market

5.38 We can also measure the contribution of an entity to concentration in a media segment through its ownership/control of various media outlets.

5.39 There is no single universally accepted methodology to measure concentration in a media segment. Generally, concentration in a media segment in a particular market is measured by empirical means such as C3 and HHI.

(i) **C3:** C3 is one of the simplest methods of measuring market concentration. The advantage of this method is that it requires only the market share of the strongest competitors and not the complete data of entire

market. Quantitatively, C3 score refers to the sum of three largest market shares where

- 0-35 : Low concentration
- 36-55 : Moderate concentration
- 56+ : High concentration.

- (ii) **HHI**: The Herfindahl-Hirschman Index (HHI) is a commonly accepted measure of market concentration. It is also used by the US Anti-Trust Division of the Department of Justice. It is calculated by squaring the market share of each media outlet operating in a market, and then summing the resulting numbers. The HHI number can range from close to zero to 10,000, when market shares are expressed as percentages. Quantitatively, HHI is expressed as below:

$$HHI = s_1^2 + s_2^2 + s_3^2 + \dots + s_n^2$$

where $s_1, s_2, s_3 \dots$ are the percentage market shares of various media outlets operating in a media segment of a relevant market. $s_1^2, s_2^2, s_3^2 \dots$ are called the contribution of outlet-1, outlet -2, outlet -3,... respectively in the HHI of the media segment.

For example, if there is only one outlet in a market, it would have 100% market share and, therefore, the HHI would be 10,000 (100^2) indicating a monopoly. On the other hand if there were thousands of outlets competing in the same market, each of them would have nearly 0% market share, and the HHI would be close to zero, indicating near zero concentration. The U.S. Department of Justice considers the following benchmarks for the market concentration:

- HHI of less than 1000 : Competitive market
- HHI of 1,000 - 1,800 : Moderately concentrated market
- HHI of 1,800 or greater : Highly concentrated market

5.40 As discussed in the case of market share, the contribution of an entity to concentration in a media segment is nothing but the contribution of the media outlet that the said entity owns/controls.

5.41 Within a relevant market, the contribution of an entity to concentration in a media segment can be measured as the sum of the contributions of each of the media outlets that the entity owns/controls in that media segment. Further, if more than one entity has ownership/control in a media outlet the contribution to

concentration of that media outlet would be attributed in full to each of the entities owning/controlling the outlet.

5.42 The following illustration (using HHI) shows how contribution to concentration for different entities can be worked out using the above approach.

| Media outlet | HHI in Media segment 1 (Newspaper) | HHI in Media segment 2 (Television) | Entities having ownership/control |
|----------------|---------------------------------------|--|-----------------------------------|
| Media outlet 1 | 900 | Nil | Entities X and Y |
| Media outlet 2 | 1200 | 1100 | Entities X and Z |
| Media outlet 3 | 700 | 500 | Entities X and Y |

The contribution of each entity towards HHI in the two segments is calculated as follows:

| Entity | Contribution to HHI in segment 1 (Newspaper) | Contribution to HHI in segment 2 (Television) |
|----------|---|--|
| Entity X | $900 + 1200 + 700 = 2800$ | $1100 + 500 = 1600$ |
| Entity Y | $900 + 700 = 1600$ | 500 |
| Entity Z | 1200 | 1100 |

Issues for Consultation:

Q11: Which of the following methods should be used for measuring concentration in any media segment of a relevant market?

- (i) C3
- (ii) HHI
- (iii) Any other

Q12: If your response to Q11 is 'Any other' method, you may support your view with a fully developed methodology for measuring concentration in any media segment of a relevant market using this method.

(4) Measuring overall concentration in a relevant market

5.43 A variety of indices to measure overall concentration in a relevant market have been prepared by various organizations and researchers. The Federal Communication Commission (FCC) has created Diversity Index as a guide to assess overall concentration in a media market. The following method is used to calculate the Diversity Index Score of a market:

- (i) Market share of an entity in each of the media segments in a market is determined separately. This is done by adding together the market shares of all media outlets owned by the entity.
- (ii) The share of the each media segment in the media universe in the market is determined based on the popularity of a media segment.
- (iii) The market share of the entity in each media segment in the market is then multiplied by the share of the corresponding media segment in that market to calculate the weighted market share of the entity in each media segment.
- (iv) The weighted market shares of all the media segments are then added together to derive weighted ownership share of each entity.
- (v) The squares of the weighted ownership shares are added together to derive Diversity Index Score of a market. Thus Diversity Index Score of a market = $w_1^2 + w_2^2 + w_3^2 + \dots + w_n^2 = \sum (w^2)$
where w_1, w_2, w_3, \dots are the weighted ownership shares of various entities in the relevant market. w_1, w_2, w_3, \dots are called the contributions of entity-1, entity-2, entity-3, ... respectively in the Diversity Index Score of the relevant market.

5.44 Apparently there is no consensus on the use of Diversity Index for measuring overall concentration in relevant markets. Prof. Eli Noam in his paper³³ has identified problem in the Diversity Index and proposed an alternative to the Diversity Index. Brian C. Hill in his paper³⁴ has contended that FCC's Diversity Index is fatally flawed and proposed an alternative to the Diversity Index.

Issues for consultation:

Q13: Would Diversity Index be an appropriate measure for overall concentration (including within media and cross media) in a relevant market?

³³ Paper titled 'How to Measure Media Concentration' FT.COM, August 30, 2004

³⁴ Paper titled 'Measuring Media Market Diversity: Concentration, Importance and Pluralism, 2006

Q14: In case your response to Q13 is in the affirmative, how should the weights be assigned to the different media segments in a relevant market in order to calculate the Diversity Index Score of the relevant market?

F. Devising Cross Media Ownership Rules

5.45 Based on the international practices and further analysis on the issue, there appear to be several methods available by way of which cross media ownership rules may be devised. These methods may be categorized as below:

- (a) Restriction on the basis of presence in a media segment of a relevant market
- (b) Restriction on the basis of market share or concentration in media segments of relevant market

5.46 In the latter category, there may be several methods as below:

- (i) Restriction on the Basis of a Threshold Market Share in a Media Segment
- (ii) Restriction on the Basis of Concentration in At Least Two Media Segments
- (iii) Restriction on the Basis of a Threshold Overall Concentration in a Relevant Market

(a) Restriction on the Basis of Presence in a Media Segment

5.47 In this method, any entity having ownership/control in a media segment of a relevant market cannot acquire or retain ownership/ control in the other media segment of the relevant market. For example, an entity having ownership/ control over any television channel would not be allowed to acquire or retain ownership/ control over any newspaper or radio channel. Similarly, an entity having ownership/ control over a newspaper would not be allowed to acquire or retain ownership/ control over any television channel or radio channel. In other words, mere presence in a media segment is a criterion for exclusion from presence in other media segments.

5.48 In Australia, no more than two of the three regulated media platforms viz. commercial radio, commercial television and associated newspapers, can be controlled by the same entity in any one license area. This is termed as 2 out of 3 rule. There may be other variants of this rule. The method described in the preceding paragraph would amount to a 1 out of 3 rule.

Issues for consultation:

Q15: Would it be appropriate to have a “1 out of 3 rule” i.e. to restrict any entity having ownership/control in an outlet of a media segment of a relevant market from acquiring or retaining ownership/control over outlets belonging to any other media segment? Please elaborate your response with justifications.

Q16: Alternatively, would it be appropriate to have a “2 out of 3 rule” or a “1 out of 2 rule”? In case you support the “1 out of 2 rule”, which media segments should be considered for imposition of restriction? Please elaborate your response with justifications.

(b) Restriction on the basis of market share or concentration in media segments of relevant market.

5.49 The possible methods of this category are described below:

(1) Restriction on the Basis of a Threshold Market Share in a Media Segment

5.50 An entity having ownership/ control in a media segment of a relevant market with a market share of more than a threshold level (say 20%) in that media segment cannot acquire or retain ownership/ control in the other media segments of the relevant market.

Issues for consultation:

Q17: Would it be appropriate to restrict any entity having ownership/ control in a media segment of a relevant market with a market share of more than a threshold level (say 20%) in that media segment from acquiring or retaining ownership/ control in the other media segments of the relevant market? Please elaborate your response with justifications.

Q18: In case your response to Q17 is in the affirmative, what should be such threshold level of market share? Please elaborate your response with justifications.

(2) Restriction on the Basis of Concentration in At Least Two Media Segments

- 5.51 In this method, cross-media restrictions are applied only when at least two media segments in a relevant market are highly concentrated i.e. the HHI of at least two media segments is more than 1800. The method may be described as below:
- 5.52 A media segment in a relevant market is considered to be highly concentrated if the HHI of the market segment is 1800 or more. Cross media ownership is not restricted in those relevant markets in which not even two media segments are highly concentrated.
- 5.53 For any relevant market where at least two media segments are highly concentrated, restrictions on cross media ownership may be applied as below:
- (i) No restriction on cross media ownership is applied on any entity having ownership/ control in the media segments of such a relevant market in case its contribution to the HHI of not more than one concentrated media segment is more than 1000.
 - (ii) In case an entity having ownership/ control in the media segments of such a relevant market contributes 1000 or more in the HHI of at least two concentrated media segments separately, the entity shall have to dilute its equity in its media outlet(s) in such a manner that its contribution in the HHI of not more than one concentrated media segment of that relevant market remains above 1000 within three years.
- 5.54 In this method, the contribution of an entity in the HHI of a media segment shall be regarded as same as the cumulative contribution of the media outlets owned/ controlled by the entity.

Issues for consultation:

Q19: Would it be appropriate to lay down restrictions on cross media ownership only in those relevant markets where at least two media segments are highly concentrated using HHI as a tool to measure concentration? Please elaborate your response with justifications.

Q20: In case your response to Q19 is in the affirmative, please comment on the suitability of the following rules for cross media ownership:

- (i) No restriction on cross media ownership is applied on any entity having ownership/ control in the media segments of such a relevant

market in case its contribution to the HHI of not more than one concentrated media segment is above 1000. (For methodology of calculation please refer para 5.42)

- (ii) In case an entity having ownership/ control in the media segments of such a relevant market contributes 1000 or more in the HHI of two or more concentrated media segments separately, the entity shall have to dilute its equity in its media outlet(s) in such a manner that its contribution in the HHI of not more than one concentrated media segment of that relevant market remains above 1000 within three years.

(3) Restriction on the Basis of a Threshold Overall Concentration in a Relevant Market

5.55 In this method, restrictions are applied in only highly concentrated relevant markets i.e. relevant markets having high overall concentration (including within media concentration and cross media concentration). The method may be described as below:

5.56 A relevant market is considered to be highly concentrated if its Diversity Index Score is 1800 or more. Cross media ownership is not restricted in any relevant market which is not highly concentrated i.e. a relevant market having Diversity Index Score less than 1800.

5.57 For highly concentrated relevant markets i.e. having Diversity Index Score of 1800 or more, restriction on cross media ownership may be applied as below:

- (i) No restriction on cross media ownership is applied on the entities contributing less than 1000 in the Diversity Index Score in such a relevant market.
- (ii) In case any entity contributes 1000 or more in the Diversity Index Score of such a relevant market, the entity shall have to dilute its equity in the media outlets in such a manner that the contribution of the entity in the Diversity Index Score of the relevant market reduces below 1000 within three years.

5.58 In this method, contribution of an entity in the Diversity Index Score of a relevant market shall be regarded as same as the cumulative contribution of the media outlets owned/ controlled by the entity.

Issues for consultation:

Q21: Would it be appropriate to lay down the restrictions on cross media ownership only in highly concentrated relevant markets using Diversity Index Score as a tool to measure concentration? Please elaborate your response with justifications.

Q22: In case your response to Q21 is in the affirmative, please comment on the suitability of the following rules for cross media ownership in such relevant markets:

- (i) No restriction on cross media ownership is applied on the entities contributing less than 1000 in the Diversity Index Score in such a relevant market.
- (ii) In case any entity contributes 1000 or more in the Diversity Index Score of such a relevant market, the entity shall have to dilute its equity in the media outlets in such a manner that the contribution of the entity in the Diversity Index Score of the relevant market reduces below 1000 within three years.

Q23. You may also suggest any other method for devising cross media ownership rules along with a detailed methodology.

G. Review of Cross Media Ownership Rules and Periodicity thereof

5.59 Many countries conduct regular reviews of the media sector in order to take account of the latest technological developments. Generally, the periodicity of such reviews is three years.

Issue for Consultation:

Q24: In case cross media ownership rules are laid down in the country, what should be the periodicity of review of such rules?

H. Applicability of Rules for Media Ownership/ Control

5.60 Obviously, the media ownership rules have to be complied by new entrants in the sector as well as by existing players.

- 5.61 As far as applicability to existing players is concerned, applicability of the rules with immediate effect might be disruptive. To ensure a smooth implementation, some amount of time may have to be granted to existing players for transitioning to compliance with the new regime.

Issue for Consultation:-

Q25: In case media ownership rules are laid down in the country, how much time should be given for complying with the prescribed rules to existing entities in the media sector, which are in breach of the rules? Please elaborate your response with justifications.

I. Devising Rules for Mergers and Acquisitions

- 5.62 It is understood that mergers and acquisitions (M&A) in the media sector may have a profound effect on viewpoint plurality. The rules relating to media ownership and control may also be applied to merged entities created through M&A.

- 5.63 With a view to protect media plurality, some countries have laid down additional restrictions on M&A. In Australia, no new transactions (for M&A) can proceed unless a minimum of 5 independent media operations or groups are maintained in metropolitan markets and four in regional markets. In some other countries, cross media M&A is restricted in case it increases concentration in the media sector significantly.

Issues for consultation:-

Q26: In your opinion, should additional restrictions be applied for M&A in media sector? Please elaborate your response with justifications.

Q27: In case your response to Q26 is in the affirmative, should such restrictions be in terms of minimum number of independent entities in the relevant market or maximum Diversity Index Score or any other method. Please elaborate your response with justifications.

Chapter: VI

Vertical Integration

- 6.1 The broadcasting media, be it TV or radio, has two important entities in its value chain - one that provides the programming (broadcasting / content services) and the other its access to the consumers (distribution service). Vertical integration in the broadcasting sector refers to ownership/control of these two business/operations by a single entity. More and more broadcasting companies owning television channels are venturing into various distribution platforms namely cable TV distribution, DTH, IPTV etc. Similarly, many companies owning distribution platforms are also entering into television broadcasting.
- 6.2 Though the vertical integration of various entities within a particular sector results in reduction in cost to the company as well as offers economies of scale, it often manifests in the form of ills of monopolies viz. higher cost to the consumers, blocking of competition, higher entry barrier for the new players to venture into the sector, deter innovations, deterioration of the quality of service to the consumers in the long run etc.
- 6.3 Vertically integrated entities may negotiate mutually beneficial deals amongst the integrated entities & at the same time put up offers for the same deals which would be deterrent to the business interests of entities which are not vertically integrated. As the vertical integration penetrates the market beyond a certain level, the vertically integrated entities may even block content from their competitors which might further affect the plurality adversely, more so, if they hold dominant positions and have cross media holdings.
- 6.4 Therefore there is a need to address such vertical integration. The competition law basically addresses economic issues only. Most of the leading democratic countries have media ownership safeguards in one form or the other to address these issues. Thus measures are required to be put in place to address the issues arising out of vertical integration in order to provide a level playing field to all the service providers and ensure fair growth of broadcasting sector.
- 6.5 Currently there are certain restrictions contemplated between the broadcasters and distributors. While some of these are already part of the existing policies and the others are in form of the recommendations given by the Authority which are

pending with the Government. The present position is summarized in the table below:

| Broadcaster | | MSO/Cable | DTH | HITS | Mobile TV |
|-------------|--------|-----------|-------|--------|-----------|
| Broadcaster | -- | NR | R [C] | R [E]* | R [E]* |
| MSO/Cable | NR | -- | R [C] | NR | NR |
| DTH | R [C] | R [C] | -- | R [E] | NR |
| HITS | R [E]* | NR | R [E] | -- | NR |
| Mobile TV | R [E]* | NR | NR | NR | -- |

NR – No Restriction

R[C] – Restriction of cross holdings by companies.

R [E] – Restriction on any entity holding more than 20% across the media.

* - recommendations

- 6.6 In Chapter II we have already discussed the regulatory restrictions between DTH operators on one hand and the Broadcaster/ MSO/ Cable operators on the other hand. Similarly regulatory restrictions between companies providing broadcasting services through HITS platform and broadcasting companies and/or DTH companies have also been enumerated. Besides these, the recommendations of TRAI with respect to regulatory restrictions between companies providing Mobile TV services and broadcasting services were also touched upon in Chapter II.
- 6.7 In addition, in the regulatory framework as prescribed by TRAI, there are certain provisions which have a direct impact on the issues arising out of vertical integration in the broadcasting sector. These are as under:
- (i) Every broadcaster must provide on request signals of its TV channels on a non-discriminatory basis to all distributors of TV channels including cable networks, Direct -to- Home, Head Ends in the Sky.
 - (ii) No exclusive contracts are permitted between broadcasters and distributors of TV channels.
 - (iii) The broadcasters are not to insist on guaranteed, minimum subscription amounts from distributors of TV channels.
- 6.8 Based on the prescribed restrictions in the policy guidelines of the government with respect to vertical integration in broadcasting sector and the provisions existing in the regulatory framework prescribed by TRAI having bearing on

vertical integration in the broadcasting sector, following issues were raised for consultation with the stakeholders in the earlier Consultation paper of TRAI, on the subject, dated 23rd Sept 2008:

- (i) Are the current restrictions adequate to address the concerns regarding vertical integration in the television segment? If not what modifications/additions do you suggest?
- (ii) Should similar restrictions be imposed to address the concerns regarding vertical integration in other segments of the media?
- (iii) What parameters should be used to measure vertical integration? Please elaborate your comments with appropriate reasoning.

6.9 In response to these issues, some of the stakeholders felt that the existing rules are not adequate to address the concerns of vertical integration in television segment. Some stakeholders requested for 'must-carry' clause to protect TV broadcasters with regard to DTH operators who misuse the distribution platform in order to favour the channels they have a stake in. Certain other stakeholders felt that the current restrictions (existing or recommended) are limited only for DTH, HITS and mobile TV. However, the Broadcaster and MSO cross holdings should also be defined and should be at the same level as that of HITS and DTH (20%), meaning thereby that an Indian Broadcaster or Broadcasting Group cannot own more than 20% in a MSO business and vice-versa.

6.10 Some of the stakeholders associated with providing Content / Distribution services were of the view that the restrictions which have been placed on DTH, HITS and Mobile TV services are too severe and need a look towards relaxation or removal of existing restrictions to fuel growth. The consumers now have access to much larger number of channels as a result of cable digitization, multiple DTH operators and also Telecom IPTV service providers, which provide alternatives to customers for the reception of TV channels or VoD content.

6.11 Some stakeholders opined that no corrective policy measures need to be implemented to effect cross media ownership restrictions as individual policy restrictions like the FM radio policy, the TV up-linking policy and the FDI policy, all ensure that airwaves do not fall in the wrong hands.

6.12 Overall, it emerged from the responses that generally there is a need to have certain acceptable safeguards against the ills of vertical integration between

broadcasters and distributors in the television media space. Presently, there are no restrictions for broadcasters to own or share interests in cable networks and vice versa. As a result of this, some of the broadcasters have stakes in cable distribution networks/ MSOs. But it is important to maintain diversity and plurality along with effective competition in the sector. The consumer should also have effective choice both in terms of content and delivery platforms. The rationale of the existing policy restrictions or recommendations on cross ownership restriction between broadcasters and distributors (DTH, HITS, Mobile TV etc.) is to ensure that the broadcaster and distributor do not have common ownership control which would perpetuate the ills of vertical integration.

- 6.13 The restrictions based on company holding can be easily subverted by creating another company by the same entities. In fact today even though there is a control/ownership restriction between DTH operators and the broadcasters the effectiveness of these restrictions in the present form is questionable.
- 6.14 With the present dispensation a company/entity can have controlling stake in a broadcasting company and a DTH licensee company, without violating the license conditions. This defeats the purpose of putting such restrictions and may lead to vertical integration between the broadcaster and the distributor. Such a broadcaster could then block the contents of a competitive broadcaster in the DTH distribution network by citing the reason of insufficient bandwidth. Similarly with around 700 channels that are being broadcast, a similar anti-competitive behavior is possible from broadcasters who may have a stake in MSO/cable operators. So it would be in the interest of the sector as a whole that a clear distinction is maintained between the broadcaster and the distributor.
- 6.15 There have been numerous disputes already brought before the Telecom Dispute Settlement and Appellate Tribunal (TDSAT) between broadcasters and MSO/cable operators alleging denial of content/ carriage by one or the other service provider and new dispute cases are being reported regularly, which is a clear indication that the current market situation requires corrective measures. There is, therefore, need to have effective safeguards that can be monitored and enforced effectively in the public interest.
- 6.16 In view of the above, the Authority made its recommendations to the Government on 25th Feb. 2009. The recommendations, with respect to the vertical integration in the broadcasting sector, were as under :

- (i) The broadcaster should not have “control” in the distribution and vice-versa.
- (ii) Definition of Control: Any entity which has been permitted/ licensed for television broadcasting or has more than 20% equity in a broadcasting company shall not have more than 20% equity in any Distributor (MSO/Cable operator, DTH operator, HITS operator, Mobile TV service provider) and vice-versa.
- (iii) The existing broadcasters who may have “control” in distribution (MSO/Cable/DTH) and entities in the distribution sector who may have similar “control” over broadcasting should be given sufficient time of three years for restructuring.

6.17 The Authority also recommended that for the purpose of putting in place effective safeguards to prevent vertical integration between the broadcasting sector and its distribution platforms (as listed above in para 6.14), the word “entity” be given a broad meaning so as to include any person including an individual, a group of persons, a public or private body corporate, a firm, a trust, or any other organization or body and also to include “inter-connected undertakings” as detailed in Chapter IV.

6.18 Subsequently, certain other provisions have been included in the regulatory framework, laid down by TRAI, for the TV broadcasting sector which are aimed to provide level playing field amongst the service providers and in turn promote competition in the market. The relevant provisions are as under:

- (i) ‘Must Carry’ provision: In the Interconnection Regulation dated 30th April 2012, applicable for the Digital Addressable Cable TV systems (DAS) areas, the ‘must carry’ has been incorporated. Now, in DAS areas, a multi system operator (MSO) is required to provide access to its network, on non-discriminatory basis, to a broadcaster who requests for carriage of its TV channel over the network of the MSO. In the ASCI report also it has been observed that the ‘must provide’ provision should be counter balanced with the ‘must carry’ provision. The regulatory provision states as under:

“3(10) Every multi system operator shall, within sixty days of receipt of request from the broadcaster or its authorised agent or intermediary, provide on non-discriminatory basis, access to its network or convey the reasons for rejection of request if the access is denied to such broadcaster.”

Provided that it shall not be mandatory for a multi system operator to carry the channel of a broadcaster if the channel is not in regional language of the region in which the multi system operator is operating or in Hindi or in English language and the broadcaster is not willing to pay the uniform carriage fee published by the multi system operator in its Reference Interconnect Offer.

Provided further that nothing contained in this sub-regulation shall apply in case of a broadcaster who has failed to pay the carriage fee as per the agreement and continues to be in default.

Provided also that imposition of unreasonable terms and conditions for providing access to the cable TV network shall amount to the denial of request for such access.

Provided also that it shall not be mandatory for the multi system operator to carry a channel for a period of next one year from the date of discontinuation of the channel, if the subscription for that particular channel, in the last preceding six months is less than or equal to five per cent. of the subscriber base of that multi system operator taken as an average of subscriber base of the preceding six months."

The provision of 'must carry' has, however, not been prescribed for the non-addressable Cable TV systems (analog cable TV systems) and DTH platforms because of capacity constraints in these distribution platforms.

- (ii) Each MSO is required to publish, in its Reference Interconnect Offer (RIO), the carriage fee it intends to charge from the broadcasters for carrying their TV channels. The carriage fee so declared should be uniform and should be non-discriminatory. The MSO cannot revise upwards the Carriage Fee for a minimum period of 2 years. The said provision states as under:

"3(12) Every multi system operator shall publish in its Reference Interconnect Offer the carriage fee for carrying a channel of a broadcaster for which no request has been made by the multi system operator:

Provided that the carriage fee shall be uniform for all the broadcasters and the same shall not be revised upwards for a minimum period of two years from the date of publication in the Reference Interconnect Offer."

- (iii) In digital delivery addressable platforms, the operators are required to offer all the channels, whether pay or free-to-air (FTA), being carried over its

network on a-la-carte basis and, optionally, can also form bouquets of TV channels and offer them to their consumers. The consumer can subscribe any such channels on a-la-carte basis with or without bouquets offered by the operator. These provisions promote competition among the channels on the one hand and on the other, allow the operators to offer innovative offerings.

- (iv) The revenue share between the MSO and LCO is, in case of all the addressable platforms, to be based on mutual negotiations allowing the flexibility to the MSOs and LCOs to arrive at a mutually acceptable revenue share, based on roles and responsibilities shared by the two. However, in case the negotiations fail, the revenue is to be shared as prescribed by TRAI in the tariff order for the addressable systems dated 21st July 2010, as amended vide amendment tariff order dated 30th April 2012.

Issues for consultation:-

Q28: Should any entity be allowed to have interest in both broadcasting and distribution companies/entities?

If 'Yes', how would the issues that arise out of vertical integration be addressed?

If 'No', whether a restriction on equity holding of 20% would be an adequate measure to determine 'control' of an entity i.e. any entity which has been permitted/ licensed for television broadcasting or has more than 20% equity in a broadcasting company shall not have more than 20% equity in any Distributor (MSO/Cable operator, DTH operator, HITS operator, Mobile TV service provider) and vice-versa?

You are welcome to suggest any other measures to determine 'control' and the limits thereof between the broadcasting and distribution entities.

Chapter VII

Mandatory Disclosures

- 7.1 It is important that if the regulatory provisions with regard to cross media holdings in the media sector and vertical integration in the broadcasting sector are in place then the same should be easily monitorable and enforceable. It is also important that, during the entire period of currency of license/permission, the licensee/permission holder complies with all the terms and conditions of the license/permission, including the eligibility criteria. Amongst various rules for the same, one of the most effective tools could be a well defined system of periodic mandatory disclosures by the entities providing the services in the sector. Therefore, it would be desirable to have a regulatory framework of periodic disclosures as a mechanism for monitoring and enforcing of the media ownership rules in case the same are prescribed.
- 7.2 In this chapter, first the “mandatory disclosures” related to broadcasting sector, which are already in place, as a part of license/permission conditions, have been discussed. Thereafter, the issue has been put for consultation with the stakeholders with a view to bring out a well defined mechanism of mandatory disclosure in the media sector to ensure regulatory compliance with respect to cross media holdings and vertical integration.

DTH

- 7.3 In the Guidelines for Obtaining License for providing Direct-to-Home(DTH) Broadcasting Service in India, the licensees are required to:

“1.4 The Licensee shall submit the equity distribution of the Company in the prescribed proforma (Table I and II of Form-A) once within one month of start of every financial year. The Government will also be able to call for details of equity holding of Licensee company at such times as considered necessary.”

“1.5 The Licensee shall submit the details of investment made by the Licensee company every year once within one month of start of that financial year. The Government. will also be able to call for details of investment made by the Licensee company in the equity of other companies at such times as considered necessary.”

“1.7 Any change in the equity structure of the Licensee Company as well as amendment to shareholders agreement, wherever applicable, shall only be carried out in consultation and with prior approval of Licensor.”

“14.1 The Licensee shall furnish to the Licensor, such information at periodic intervals or at such times as the Licensor may require, including, but, not limited to, documents, reports, accounts, estimates, returns or other information such as change in Chief Executive, Board of Directors, equity holding pattern etc.”

FM Radio

- 7.4 In the Consolidated policy for FM Radio Phase III certain provisions regarding disclosures on the part of the company holding license/permission have been stipulated. The provisions are as under:

“.....9.3 The company shall make full disclosure, at the time of application, of Shareholders Agreements, Loan Agreements and such other Agreements that are finalized or are proposed to be entered into. Any subsequent changes in these would be disclosed to the Ministry of Information and Broadcasting, within 15 days of any changes, having a bearing on the foregoing Agreements.....”

IPTV

- 7.5 In the guidelines for Obtaining License for providing IPTV (Internet Protocol Television) Service in India, the licensees are required to:

“..... (ii) All telecom licensees/ Cable operators before providing IPTV will give a self certified declaration to I&B ministry, DoT and TRAI giving details such as license/ registration under which IPTV service is proposed, the start date, the area being covered, and details of the network infrastructure etc.....”

The above mentioned self certified declaration to be submitted by IPTV service provider in the prescribed format includes information on shareholding pattern of the applicant company and in case, there is any foreign investment direct or indirect in the applicant company then whether the applicant is complying with Foreign investment norms/ FIPB approval requirements. In addition to this, the said guidelines also prescribe as under:

“.....(xvi) The IPTV service provider shall submit such information with respect to its service as may be required by the Government in the Ministry of Information and Broadcasting or its authorized representative from time to time.”

HITS

- 7.6 In the Guidelines for Obtaining License for providing HITS Service in India, the licensees are required to:

"... 1.5 The company shall make full disclosure, at the time of application, of Shareholders Agreements, Loan Agreements and such other Agreements that are finalized or are proposed to be entered into. Any subsequent changes in these would be disclosed to the Ministry of Information and Broadcasting, within 15 days of any changes, having a bearing on the foregoing Agreements.

... ..

9.2 The company shall submit such information with respect to its services as may be required by the Government or its authorised representative, in the format as may be required, from time to time....."

Policy Guidelines for Downlinking of Television Channels

- 7.7 As per the policy guidelines for Downlinking of the TV channels, the applicant company has to disclose shareholding pattern. Clause 5.11 of the relevant guidelines provides as under:

"... 5.11 The applicant company shall give intimation to Ministry of Information and Broadcasting regarding change in the directorship, key executives or foreign direct investment in the company, within 15 days of such a change taking place. It shall also obtain security clearance for such changes in its directors and key executives...."

Policy Guidelines for Uplinking of Television Channels from India

- 7.8 As per the policy guidelines for Uplinking of the TV channels, the applicant company has to disclose shareholding pattern. Clauses 3.1.4 and 3.1.5 of the relevant guidelines provides as under:

"... 3.1.4 The company shall make full disclosure, at the time of application, of Shareholders Agreements, Loan Agreements and such other Agreements that are finalized or are proposed to be entered into. Any subsequent changes in these would be disclosed to the Ministry of Information and Broadcasting, within 15 days of any changes, having a bearing on the foregoing Agreements.

3.1.5 It will be obligatory on the part of the company to intimate the Ministry of Information & Broadcasting, the changes in Foreign Direct Investment in the

company, within 15 days of such change. While effecting changes in the shareholding patterns, it shall ensure its continued compliance to Clause 3.1.1 and 3.1.2 above.....”.

Print Media

- 7.9 The guidelines dated 31st March 2006 issued by MIB applicable for **(i) Publication of newspapers and periodicals dealing with news and current affairs. (ii) Publication of facsimile editions of foreign newspapers**, provides as under:

“..... The applicant entity shall make full disclosure, at the time of application, of Shareholders' Agreements and Loan Agreements that are finalized or proposed to be entered into. Any subsequent change in these shall be disclosed to the Ministry of Information & Broadcasting within fifteen days of such a change.”

- 7.10 In order to arrive at effective framework for mandatory disclosure, it is worthwhile to take note of the following:

- (i) The parameters that are likely to be handy in monitoring and enforcing compliance of restrictions with respect to cross media holdings and vertical integration, if any, as well as determining control/ concentration of different entities/ companies in different media sectors are:
 - a. Equity structure of the entity/ company
 - b. Shareholding pattern of the entity/ company
 - c. Foreign direct investment pattern of the entity/ company
 - d. Interests of the entity/ company in other entities/ companies engaged in media sector
 - e. Interests of Entities/companies, having shareholding beyond a threshold (say 15%) in the media entity/company under consideration, in other media entities/companies
 - f. Shareholders Agreements, Loan Agreements
 - g. Details of Key executives and Board of Directors of the entity/ company.
 - h. Market share of the entity/ company
 - i. Viewership / Readership details
 - j. Subscription and Advertisement Revenue of the entity/ company.
- (ii) The percentage of equity holding is commonly used as a measure of control/ownership in a company e.g. in Telecom sector equity holding is one

of the key parameters used to identify control. Equity participation is quantifiable and can be monitored and enforced. However, there are some entities who are not registered companies; in such cases the equity holding would not be relevant. Besides it may also be noted that a sole proprietorship, an association of persons, a body of individuals, a partnership firm, a corporate body or company, a public sector business enterprise, etc. are all entities.

- (iii) In law, an entity is something capable of bearing legal rights and obligations. TRAI had recommended (As mentioned in para 5.15) that for the purpose of putting in place effective safeguards to prevent vertical integration between the broadcasting sector and its distribution platforms, the word “entity” be given a broad meaning so as to include any person including an individual, a group of persons, a public or private body corporate, a firm, a trust, or any other organization or body and also to include “inter-connected undertakings” as detailed in Chapter IV. Thus any effective system for mandatory disclosure should also apply to all “interconnected undertakings” be it for monitoring/ enforcing compliance with respect to cross media holdings or vertical integration.

Issues for consultation:-

- Q29: What additional parameters, other than those listed in para 7.10 (i), could be relevant with respect to mandatory disclosures for effective monitoring and compliance of media ownership rules?**
- Q30: What should be the periodicity of such disclosures?**
- Q31: Should the disclosures made by the media entities be made available in the public domain?**

Chapter VIII

Summary of Consultation Issues

General Disqualifications

- Q1:** In your opinion, are there other entities, apart from entities such as political parties, religious bodies, Government or government aided bodies which have already been recommended by TRAI to be disqualified from entry into the broadcasting and distribution sectors, which should also be disqualified from entry into the media sector? Please elaborate your response with justifications.
- Q2:** Should the licensor, either *suo motu* or based on the recommendations of the regulator, be empowered to disqualify any entity from entering the media sector in public interest? For instance, should the licensor or the regulator be empowered to disqualify (or recommend for disqualification) a person who is subject to undue influence by a disqualified person.

Media Ownership/ Control

- Q3:** Should ownership/ control of an entity over a media outlet be measured in terms of equity holding? If so, would a restriction on equity holding of 20% (as recommended by TRAI in its recommendations on Media Ownership dated 25th Feb 2009) be an appropriate threshold? Else, please suggest any other threshold value, with justification?
- Q4:** In case your response to Q3 is in the negative, what other measure(s) of ownership/ control should be used? Please support your view with a detailed methodology to measure ownership/ control over a media outlet.

Media Ownership rules

- Q5:** Should only news and current affairs genre or all genres be considered while devising ways and means to ensure viewpoint plurality? Please elaborate your response with justifications.
- Q6:** Which media amongst the following would be relevant for devising ways and means of ensuring viewpoint plurality?
- (i) Print media viz. Newspaper & magazine
 - (ii) Television
 - (iii) Radio

- (iv) Online media
- (v) All or some of the above

- Q7:** Should the relevant markets be distinguished on the basis of languages spoken in them for evaluating concentration in media ownership? If your response is in the affirmative, which languages should be included in the present exercise?
- Q8:** If your response to Q7 is in the negative, what should be the alternative basis for distinguishing between various relevant markets?
- Q9:** Which of the following metrics should be used to measure the level of consumption of media outlets in a relevant market?
- (i) Volume of consumption
 - (ii) Reach
 - (iii) Revenue
 - (iv) Any other
- Please elaborate your response with justifications.
- Q10:** In case your response to Q9 is 'Any other' metric, you may support your view with a fully developed methodology to measure the level of consumption of various media outlets using this metric.
- Q11:** Which of the following methods should be used for measuring concentration in any media segment of a relevant market?
- (i) C3
 - (ii) HHI
 - (iii) Any other
- Q12:** If your response to Q11 is 'Any other' method, you may support your view with a fully developed methodology for measuring concentration in any media segment of a relevant market using this method.
- Q13:** Would Diversity Index be an appropriate measure for overall concentration (including within media and cross media) in a relevant market?
- Q14:** In case your response to Q13 is in the affirmative, how should the weights be assigned to the different media segments in a relevant market in order to calculate the Diversity Index Score of the relevant market?

- Q15:** Would it be appropriate to have a “1 out of 3 rule” i.e. to restrict any entity having ownership/control in an outlet of a media segment of a relevant market from acquiring or retaining ownership/control over outlets belonging to any other media segment? Please elaborate your response with justifications.
- Q16:** Alternatively, would it be appropriate to have a “2 out of 3 rule” or a “1 out of 2 rule”? In case you support the “1 out of 2 rule”, which media segments should be considered for imposition of restriction? Please elaborate your response with justifications.
- Q17:** Would it be appropriate to restrict any entity having ownership/ control in a media segment of a relevant market with a market share of more than a threshold level (say 20%) in that media segment from acquiring or retaining ownership/ control in the other media segments of the relevant market? Please elaborate your response with justifications.
- Q18:** In case your response to Q17 is in the affirmative, what should be such threshold level of market share? Please elaborate your response with justifications.
- Q19:** Would it be appropriate to lay down restrictions on cross media ownership only in those relevant markets where at least two media segments are highly concentrated using HHI as a tool to measure concentration? Please elaborate your response with justifications.
- Q20:** In case your response to Q19 is in the affirmative, please comment on the suitability of the following rules for cross media ownership:
- (i) No restriction on cross media ownership is applied on any entity having ownership/ control in the media segments of such a relevant market in case its contribution to the HHI of not more than one concentrated media segment is above 1000. (For methodology of calculation please refer para 5.42)
 - (ii) In case an entity having ownership/ control in the media segments of such a relevant market contributes 1000 or more in the HHI of two or more concentrated media segments separately, the entity shall have to dilute its equity in its media outlet(s) in such a manner that its contribution in the HHI of not more than one concentrated media segment of that relevant market remains above 1000 within three years.

- Q21:** Would it be appropriate to lay down the restrictions on cross media ownership only in highly concentrated relevant markets using Diversity Index Score as a tool to measure concentration? Please elaborate your response with justifications.
- Q22:** In case your response to Q21 is in the affirmative, please comment on the suitability of the following rules for cross media ownership in such relevant markets:
- (i)** No restriction on cross media ownership is applied on the entities contributing less than 1000 in the Diversity Index Score in such a relevant market.
 - (ii)** In case any entity contributes 1000 or more in the Diversity Index Score of such a relevant market, the entity shall have to dilute its equity in the media outlets in such a manner that the contribution of the entity in the Diversity Index Score of the relevant market reduces below 1000 within three years.
- Q23:** You may also suggest any other method for devising cross media ownership rules along with a detailed methodology.
- Q24:** In case cross media ownership rules are laid down in the country, what should be the periodicity of review of such rules?
- Q25:** In case media ownership rules are laid down in the country, how much time should be given for complying with the prescribed rules to existing entities in the media sector, which are in breach of the rules? Please elaborate your response with justifications.

Mergers and Acquisitions

- Q26:** In your opinion, should additional restrictions be applied for M&A in media sector? Please elaborate your response with justifications.
- Q27:** In case your response to Q26 is in the affirmative, should such restrictions be in terms of minimum number of independent entities in the relevant market or maximum Diversity Index Score or any other method. Please elaborate your response with justifications.

Vertical Integration

Q28: Should any entity be allowed to have interest in both broadcasting and distribution companies/entities?

If 'Yes', how would the issues that arise out of vertical integration be addressed?

If 'No', whether a restriction on equity holding of 20% would be an adequate measure to determine 'control' of an entity i.e. any entity which has been permitted/ licensed for television broadcasting or has more than 20% equity in a broadcasting company shall not have more than 20% equity in any Distributor (MSO/Cable operator, DTH operator, HITS operator, Mobile TV service provider) and vice-versa?

You are welcome to suggest any other measures to determine 'control' and the limits thereof between the broadcasting and distribution entities.

Mandatory Disclosures

Q29: What additional parameters, other than those listed in para 7.10 (i), could be relevant with respect to mandatory disclosures for effective monitoring and compliance of media ownership rules?

Q30: What should be the periodicity of such disclosures?

Q31: Should the disclosures made by the media entities be made available in the public domain?

Other Issues

Stakeholders may also provide their comments on any other issue relevant to the present consultation.

Glossary

| Sl. No | Abbreviation | Description |
|--------|--------------|---|
| 1 | AIR | All India Radio |
| 2 | ASCI | Administrative Staff College of India |
| 3 | BDU | Broadcasting Distribution Units |
| 4 | CAGR | Compound Annual Growth Rate |
| 5 | CII | Confederation of Indian Industry |
| 6 | CRTC | Canadian Radio-television Telecommunications Commission |
| 7 | DAS | Digital Addressable Cable TV Systems |
| 8 | DMA | Designated Market Area |
| 9 | DMB | Digital Multimedia Broadcasting |
| 10 | DTH | Direct to Home |
| 11 | E&M | Entertainment & Media |
| 12 | FCC | Federal Communications Commission |
| 13 | FDI | Foreign Direct Investment |
| 14 | FII | Foreign Institutional Investor |
| 15 | FIPB | Foreign Investment Promotion Board |
| 16 | FM | Frequency Modulation |
| 17 | GDP | Gross Domestic Product |
| 18 | HHI | Herfindahl-Hirschman Index |
| 19 | HITS | Headend in the Sky |
| 20 | RS. | Indian Rupee |
| 21 | IPTV | Internet Protocol Television |
| 22 | LOI | Letter of Intent |
| 23 | MIB | Ministry of Information & Broadcasting |
| 24 | MPA | Media Partners Asia |
| 25 | MSO | Multi System Operator |
| 26 | OfCom | Office of Communications |
| 27 | PwC | PricewaterhouseCoopers |
| 28 | RNI | Registrar of Newspapers for India |
| 29 | ROC's | Registrar of Companies |
| 30 | TRAI | Telecom Regulatory Authority of India |

D.O. No. 9/9/2012-BP&L

उदय कुमार वर्मा

स. ४व

UDAY KUMAR VARMA

SECRETARY

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सत्यमेव जयते

भारत सरकार

सूचना और प्रसारण मंत्रालय

शास्त्री भवन, नई दिल्ली-110001

GOVERNMENT OF INDIA

MINISTRY OF INFORMATION & BROADCASTING

SHASHTRI BHAWAN, NEW DELHI-110001

16th May, 2012

Dear Shri Khullar,

You are aware that Indian media landscape is witnessing changes due to convergence of technologies. Major players are looking for expanding their business interest in various segments of print and broadcasting sectors. In this scenario, the issue of media ownership and the need for cross media restrictions assumes great significance.

2. The Authority has earlier looked into the issue of media ownership and made its recommendations on 25.2.2009. These recommendations were examined in the Ministry and, as recommended by TRA! the Ministry sponsored a study through Administrative Staff College of India (ASCI) in July 2009. The study dealt with the nature and extent of cross media ownership, existing regulatory framework, relevant market and international experience. The ASCI report sheds light, *inter-alia*, on the following issues:-

- i. Cross media ownership rules for broadcasting, print and the new media must be put in place since there is ample evidence of market dominance in certain relevant markets.
- ii. As regards vertical integration, the report, *inter-alia*, recommends that a cap on vertical holdings must be carefully determined based on existing market conditions.
- iii. Prior to setting of media rules there is a need to conduct periodic market analysis taking note of structure of the relevant markets and competition.
- iv. Market survey and analysis needs to be made every 3-4 years and ownership rules changed accordingly.
- v. Disclosure regarding cross media affiliations and ownership to be in public domain.
- vi. There should be a regulatory oversight on carriers so as to ensure non discriminatory access.

3. The study of ASCI has since been placed in the public domain for seeking stakeholder views/ comments. In view of fact that several changes have taken place over the last three years in the media sector as also keeping in view the technological advancements, developments in convergence and changes in media consumption pattern, a stage has

Contd....Page-2/-

come to address the issues of cross media restrictions and safeguards. In view of this, the Authority may re-look at the following issues and make appropriate recommendations:-

- I. In the present emerging scenario more and more broadcasting companies owning television channels are venturing into various distribution platforms, namely cable TV distribution, DTH and IPTV etc. Similarly many companies owning distribution platforms are also entering into television broadcasting. This type of vertical integration can seriously affect competition and promote monopolistic practices. Therefore there is a need to address such vertical integration. TRAI may suggest measures that can be put in place to address vertical integration in order to ensure fair growth of the broadcasting sector.
 - II. In another scenario companies have controls/ownerships across Print, TV and Radio leading to horizontal integration. At present there is no restriction for a company to have ownership across Radio, Television and Print mediums. Such a situation may prevent plurality of news and views and, in turn, may have several implications including ensuring quality services at reasonable prices. TRAI may also look at this issue and suggest appropriate measures in this regard.
4. I, therefore, request you to give your considered attention to the entire issue from a fresh perspective and send your recommendations under Section 11(1) (a) (ii) and (iv) of the TRAI Act, 1997, on the above issues.

Regards,

Yours sincerely,

Uday Kumar Varma
(Uday Kumar Varma)

Shri Rahul Khullar
Chairman
Telecom Regulatory Authority of India (TRAI)
Mahanagar Doorsanchar Bhawan
Jawaharlal Nehru Marg (Old Minto Road)
New Delhi – 110 002.

Data Tables from RNI

- (i) RNI has furnished information to TRAI about the ownership pattern of the newspapers, based entirely on the Annual Statements submitted by the newspapers to RNI for the year 2010-11. The ownership patterns have been categorized periodicity-wise, language-wise, state-wise and also on the basis of circulation and common ownership³⁵.

Ownership of Newspapers

- (ii) The study of ownership pattern of newspapers in 2010-11 is entirely based on the Annual Statements received in this office. The study reveals that individuals owned a majority of them. Out of 14,508 newspapers that furnished Annual Statements for the year under review, Individuals owned 11,775 (81.16 per cent), followed by Joint Stock Companies 1,767 (12.18 per cent), Societies and Associations 361 (2.49 per cent), Trusts 290 (2.00 per cent), Firms and Partnerships 219 (1.51 per cent), Central and State Governments 66 newspapers (0.45 per cent). The remaining 30 newspapers (0.21 per cent) were owned by other categories. (Table 2.1)

Periodicity-wise

- (iii) Periodicity-wise study reveals that among dailies, 3145 (71.54 per cent) were owned by Individuals, followed by Joint Stock Companies 1001 (22.77 per cent) and Firms and Partnerships 125 (2.84 per cent). In case of tri/bi-weeklies, Individuals owned 25 newspapers (80.65 per cent). (Table 2.2)
- (iv) Individuals also owned a sizeable number of other periodicals. Weeklies and Fortnightlies owned by individuals were 4,893 (92.16 per cent) and 1,382 (89.74 per cent) respectively. Out of 2,629 Monthlies, 1,943 (73.91 per cent) belonged to Individuals and 282 (10.73 per cent) belonged to Joint Stock Companies. The largest numbers of Quarterlies, 191 (71.00 per cent) were also owned by Individuals, followed by Society/Association 25 (9.29 per cent). Out of 69 Annuals, Joint Stock companies owned 39 (56.52 per cent) followed by Individuals with 24 (34.78 per cent). (Table 2.2 and 2.3)

³⁵ Common Ownership Unit : a newspaper establishment, owning two or more 'News and Current Affairs' newspapers of which atleast one is a daily, is termed as a 'Common ownership unit'.

Language-wise

- (v) Out of 7,910 Hindi newspapers 7,187, (90.86 per cent) were owned by Individuals, followed by Joint Stock Companies 477 (6.03 per cent) and Firms and Partnerships 61 (0.77 per cent). In English, out of 1,406 newspapers, Individuals owned 645 (45.87 per cent) followed by Joint Stock companies 574(40.83 per cent), Societies and Associations 73 (5.19 per cent). Individuals owned the maximum number of newspapers in all the languages except Malayalam in which Joint Stock Companies owned 111 (57.81 per cent) out of 192, In Manipuri, Kashmiri, Bodo and Dogri Individuals owned 100% newspapers. (Table 2.4A)

State-wise

- (vi) Uttar Pradesh and Delhi retained the 1st and 2nd position in publishing the maximum number of newspapers respectively for the year 2010-11. In Uttar Pradesh, out of 3,671 newspapers, 3,422 (93.22 per cent) were owned by Individuals and 135 (3.68 per cent) by Joint Stock Companies. Out of 1933 newspapers published from Delhi, Individuals owned 1417 (73.31 per cent) newspapers, followed by Joint Stock Companies 316 (16.14 per cent) and Society/Association 75 (3.88 per cent). In all states Individuals owned the largest number of newspapers except Kerala where Joint Stock Companies owned 123 (53.71 per cent) out of 229. All the newspapers published from Sikkim (26), Andaman & Nicobar Island (7), Daman & Diu (5), and Nagaland (3) were owned by Individuals. (Table 2.4 B)

Circulation

- (vii) The circulation of newspapers, owned by individuals in 2010-11 was the highest with 18,63,04,402 copies (56.59 per cent), followed by Joint Stock Companies 11,83,18,398 copies (35.94 per cent), by Firms and Partnerships 82,29,109 copies (2.50 per cent), by Trusts 77,14,323 copies (2.34 per cent), by Societies and Associations 58,98,204 copies (1.79 per cent), by Government owned newspapers 18,86,956 copies (0.57 per cent) and those owned by others circulated 8,53,449 copies (0.26 per cent). (Table 2.5)

Common Ownership

- (viii) There were 1145 common ownership units in 2010-11, which owned 4,137 'news-interest' publications. Out of these, 2,801 were dailies and tri/bi-weeklies, 949 weeklies and 387 other periodicities. Out of 4,137 annual statements submitted by such newspapers 2830 belonged to Individuals, 1011

to Joint Stock Companies, 89 to Firms and Partnerships, 44 to Trusts and 163 to other Units. (Table 2.6 and 2.7)

- (ix) Apart from 'News & Current Affairs' newspapers, these 1145 Common Ownership Units also brought out 189 newspapers, which had no news content. Thus, newspapers owned by 'Common Ownership Units' were 4,137 in number. (Table 5.8) Dailies published by Common Ownership Units had a total circulation of 12, 61, 77, 993 copies, i.e. 71.83 per cent of the total circulation of all Dailies, published in India. (Table 2.9)
- (x) The circulation of newspapers, owned by Common Ownership Units in 2010-11 was 17,43,43,656 copies i.e 51.01 per cent of the total. Out of these, 'News-interest' newspapers circulated 16,79,23,179 copies and 'Non-news-interest' publications circulated 64,20,477 copies. (Details for last 10 years may be seen in Table 2.10)
- (xi) Out of a total circulation of 16,79,23,179 copies claimed by 'News & Current Affairs' newspapers in this category, 8,62,67,980 copies (51.37 per cent) were claimed by Joint Stock Companies, followed by Individuals 6,59,09,311 copies (39.25 per cent), Firms and Partnerships 44,29,168 copies (2.64 per cent) and Trusts 23,56,961 copies (1.40 per cent) and Others 89,59,759 (5.34 per cent) (Table 2.6)
- (xii) There were 1514 'big' and 'medium' dailies, owned by common ownership units, having a total circulation of 11,15,71,144 copies. The largest number of these were published in Hindi (745), followed by Urdu (166), English (153), Telugu (134), Malayalam (58), Marathi (52), Gujarati (49), Tamil (44), Oriya (27). In the 'big' and 'medium' categories also, the circulation of Hindi dailies was the largest with 4,87,70,831 copies (43.71 per cent) of the total. English dailies in the Common Ownership Units category circulated 1,83,05,840 (16.41 per cent), followed by Telugu 85,80,817 copies (7.69 per cent), Urdu 82,41,589 copies (7.39 per cent), Malayalam 49,19,374 (4.41per cent), Marathi 49,00,389 (4.39 per cent), Tamil 37,19,634 copies (3.33 per cent). (Table 2.11)

RNI data Tables

Table 2.1

| OWNERSHIP OF NEWSPAPERS | | |
|-------------------------|----------------------|---------------------|
| Form of Ownership | Number of Newspapers | Percentage of Total |
| Government | 81 | 0.57 |
| Others | 30 | 0.21 |
| Firm/Partnership | 218 | 1.53 |
| Individuals | 11761 | 82.72 |
| Joint Stock Companies | 1767 | 12.43 |
| Society/ Association | 361 | 2.54 |
| Trusts | 290 | 0.5 |
| Total | 14508 | 100 |

Table 2.2

OWNERSHIP OF NEWSPAPERS (PERIODICITY WISE)

| Category | Annual | Bi/Tri- Weekly | Daily | Fortnightly | Monthly | Others | Quarterly | Weekly | Total |
|--------------------------------|--------|-------------------|-------|-------------|---------|--------|-----------|--------|-------|
| Central Govt. | 0 | 0 | 0 | 5 | 34 | 8 | 9 | 4 | 60 |
| Educational Institution | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| International Organisations | 0 | 0 | 0 | 0 | 1 | 1 | 0 | 1 | 3 |
| Firm/Partnership | 2 | 0 | 125 | 10 | 33 | 2 | 2 | 45 | 219 |
| Individuals | 24 | 25 | 3145 | 1382 | 1943 | 172 | 191 | 4893 | 11775 |
| Organs of Political Parties | 0 | 0 | 12 | 3 | 3 | 0 | 1 | 8 | 27 |
| Others | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Pub. Ltd. | 18 | 1 | 437 | 23 | 83 | 13 | 9 | 149 | 733 |

| | | | | | | | | | |
|----------------------------|-----------|-----------|-------------|-------------|-------------|------------|------------|-------------|--------------|
| Pvt. Ltd. | 21 | 2 | 564 | 84 | 199 | 35 | 14 | 115 | 1034 |
| State Govt. | 0 | 0 | 0 | 0 | 4 | 0 | 0 | 2 | 6 |
| Society/Association | 2 | 1 | 56 | 23 | 169 | 23 | 25 | 62 | 361 |
| Trusts | 2 | 2 | 57 | 10 | 160 | 11 | 18 | 30 | 290 |
| Total | 69 | 31 | 4396 | 1540 | 2629 | 265 | 269 | 5309 | 14508 |

Table 2.3

OWNERSHIP PATTERN OF NEWSPAPERS

(Periodicity-Wise/ In percentage)

| Form of Ownership | Dailies, Tri/Bi Weeklies | Weeklies | Fortnightlies | Monthlies | Others |
|------------------------------|---------------------------------|-----------------|----------------------|------------------|---------------|
| Individuals | 71.61 | 92.16 | 89.74 | 73.91 | 64.18 |
| Society/Association | 1.29 | 1.17 | 1.49 | 6.43 | 8.29 |
| Firm/Partnership | 2.82 | 0.85 | 0.65 | 1.26 | 1 |
| Joint Stock Companies | 22.68 | 4.97 | 6.95 | 10.73 | 18.24 |
| Others | 1.6 | 0.85 | 1.17 | 7.68 | 8.29 |
| Total | 100 | 100 | 100 | 100 | 100 |

TABLE 2.4 A

DISTRIBUTION OF OWNERSHIP OF NEWSPAPERS

(LANGUAGE-WISE)

| Language | Central Govt. | International Organisations | Firm/ Partnership | Individuals | OPP | Pub. Ltd. | Pvt. Ltd. | State Govt. | Society/ Association | Trusts | Total |
|-----------------|----------------------|------------------------------------|--------------------------|--------------------|------------|------------------|------------------|--------------------|-----------------------------|---------------|--------------|
| Assamese | 0 | 0 | 7 | 25 | 0 | 1 | 12 | 0 | 1 | 0 | 46 |
| Bengali | 1 | 0 | 8 | 366 | 4 | 8 | 36 | 0 | 33 | 16 | 472 |

| | | | | | | | | | | | |
|---------------------|-----------|----------|------------|--------------|-----------|------------|-------------|----------|------------|------------|--------------|
| Bilingual | 3 | 0 | 9 | 452 | 1 | 22 | 48 | 3 | 47 | 18 | 603 |
| Bodo | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| Dogri | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| English | 32 | 2 | 36 | 645 | 3 | 301 | 273 | 0 | 73 | 41 | 1406 |
| Gujarati | 1 | 0 | 23 | 630 | 0 | 24 | 27 | 0 | 21 | 35 | 761 |
| Hindi | 14 | 1 | 61 | 7187 | 6 | 194 | 283 | 1 | 100 | 63 | 7910 |
| Kannada | 0 | 0 | 2 | 127 | 0 | 26 | 20 | 0 | 6 | 19 | 200 |
| Kashmiri | 0 | 0 | 0 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 3 |
| Konkani | 1 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 2 | 4 |
| Maithili | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 2 |
| Malayalam | 1 | 0 | 3 | 48 | 8 | 76 | 35 | 0 | 3 | 18 | 192 |
| Manipuri | 0 | 0 | 0 | 4 | 0 | 0 | 0 | 0 | 0 | 0 | 4 |
| Marathi | 0 | 0 | 29 | 389 | 0 | 21 | 56 | 0 | 13 | 13 | 521 |
| Multilingual | 0 | 0 | 0 | 63 | 0 | 0 | 2 | 0 | 7 | 6 | 78 |
| Nepali | 0 | 0 | 0 | 23 | 0 | 0 | 1 | 0 | 1 | 0 | 25 |
| Oriya | 1 | 0 | 0 | 196 | 0 | 1 | 29 | 0 | 12 | 6 | 245 |
| Others | 0 | 0 | 0 | 40 | 0 | 0 | 2 | 0 | 1 | 3 | 46 |
| Punjabi | 1 | 0 | 6 | 120 | 0 | 3 | 8 | 0 | 5 | 3 | 146 |
| Sanskrit | 0 | 0 | 0 | 4 | 0 | 1 | 0 | 0 | 2 | 1 | 8 |
| Sindhi | 0 | 0 | 0 | 18 | 0 | 0 | 0 | 0 | 0 | 1 | 19 |
| Tamil | 1 | 0 | 17 | 136 | 4 | 10 | 69 | 0 | 11 | 24 | 272 |
| Telugu | 0 | 0 | 5 | 436 | 0 | 41 | 99 | 0 | 10 | 12 | 603 |
| Urdu | 4 | 0 | 13 | 859 | 1 | 4 | 32 | 2 | 14 | 9 | 938 |
| Total | 60 | 3 | 219 | 11775 | 27 | 733 | 1034 | 6 | 361 | 290 | 14508 |

Table 2.4 B
DISTRIBUTION OF OWNERSHIP OF NEWSPAPERS
(STATE-WISE)

| State | Central Govt. | International Organisations | Firm/ Partnership | Individuals | OPP | Pub. Ltd. | Pvt. Ltd. | State Govt. | Society/ Association | Trusts | Total |
|---------------------------|---------------|-----------------------------|-------------------|-------------|-----|-----------|-----------|-------------|----------------------|--------|-------|
| Andaman & Nicobar Islands | 0 | 0 | 0 | 7 | 0 | 0 | 0 | 0 | 0 | 0 | 7 |
| Andhra Pradesh | 6 | 0 | 11 | 626 | 0 | 62 | 92 | 0 | 12 | 8 | 817 |
| Arunachal Pradesh | 0 | 0 | 1 | 2 | 0 | 0 | 1 | 0 | 0 | 0 | 4 |
| Assam | 0 | 0 | 7 | 55 | 0 | 3 | 31 | 0 | 1 | 0 | 97 |
| Bihar | 0 | 0 | 1 | 117 | 0 | 11 | 6 | 0 | 0 | 0 | 135 |
| Chandigarh | 0 | 0 | 1 | 26 | 0 | 17 | 1 | 0 | 3 | 3 | 51 |
| Chhattisgarh | 0 | 0 | 0 | 129 | 0 | 5 | 11 | 0 | 1 | 0 | 146 |
| Daman & Diu | 0 | 0 | 0 | 5 | 0 | 0 | 0 | 0 | 0 | 0 | 5 |
| Delhi | 48 | 3 | 20 | 1417 | 5 | 94 | 222 | 2 | 75 | 47 | 1933 |
| Dadra & Nagar Haveli | 0 | 0 | 1 | 5 | 0 | 1 | 0 | 0 | 0 | 0 | 7 |
| Goa | 0 | 0 | 0 | 2 | 0 | 4 | 7 | 0 | 4 | 0 | 17 |
| Gujarat | 0 | 0 | 26 | 669 | 0 | 42 | 33 | 0 | 25 | 43 | 838 |
| Haryana | 0 | 0 | 0 | 97 | 0 | 6 | 18 | 0 | 2 | 2 | 125 |
| Himachal Pradesh | 1 | 0 | 0 | 36 | 0 | 3 | 4 | 0 | 0 | 0 | 44 |
| Jharkhand | 0 | 0 | 0 | 35 | 0 | 13 | 11 | 0 | 1 | 3 | 63 |
| Jammu & Kashmir | 0 | 0 | 3 | 136 | 1 | 6 | 8 | 1 | 1 | 2 | 157 |
| Karnataka | 1 | 0 | 2 | 162 | 0 | 58 | 35 | 0 | 9 | 25 | 292 |
| Kerala | 1 | 0 | 3 | 65 | 8 | 88 | 35 | 0 | 6 | 23 | 229 |

| | | | | | | | | | | | |
|----------------|----|---|-----|-------|----|-----|------|---|-----|-----|-------|
| Maharashtra | 1 | 0 | 47 | 614 | 0 | 113 | 174 | 1 | 44 | 31 | 1025 |
| Manipur | 0 | 0 | 1 | 12 | 0 | 0 | 0 | 0 | 0 | 0 | 13 |
| Meghalaya | 0 | 0 | 0 | 7 | 0 | 0 | 2 | 0 | 0 | 0 | 9 |
| Mizoram | 0 | 0 | 0 | 3 | 0 | 0 | 1 | 0 | 0 | 0 | 4 |
| Madhya Pradesh | 0 | 0 | 9 | 1137 | 0 | 25 | 54 | 2 | 14 | 2 | 1243 |
| Nagaland | 0 | 0 | 0 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 3 |
| Orissa | 0 | 0 | 0 | 234 | 0 | 6 | 35 | 0 | 12 | 4 | 291 |
| Pondicherry | 0 | 0 | 1 | 11 | 0 | 0 | 4 | 0 | 1 | 3 | 20 |
| Punjab | 0 | 0 | 3 | 132 | 0 | 14 | 7 | 0 | 5 | 4 | 165 |
| Rajasthan | 0 | 0 | 14 | 961 | 0 | 23 | 26 | 0 | 8 | 6 | 1038 |
| Sikkim | 0 | 0 | 0 | 26 | 0 | 0 | 0 | 0 | 0 | 0 | 26 |
| Tamil Nadu | 1 | 0 | 23 | 198 | 5 | 34 | 94 | 1 | 23 | 36 | 415 |
| Tripura | 0 | 0 | 1 | 37 | 1 | 1 | 1 | 0 | 0 | 1 | 42 |
| Uttar Pradesh | 0 | 0 | 31 | 3422 | 3 | 74 | 61 | 0 | 63 | 17 | 3671 |
| Uttaranchal | 0 | 0 | 3 | 988 | 0 | 10 | 9 | 0 | 7 | 4 | 1021 |
| West Bengal | 1 | 0 | 10 | 399 | 4 | 20 | 51 | 0 | 44 | 26 | 555 |
| Total | 60 | 3 | 219 | 11775 | 27 | 733 | 1034 | 6 | 361 | 290 | 14508 |

Table 2.5
CIRCULATION OF NEWSPAPERS
UNDER DIVERSE OWNERSHIP

| Form of Ownership | Number | Circulation | % of Cir. |
|-------------------|--------|-------------|-----------|
| Government | 66 | 1886956 | 0.57 |
| Others | 30 | 853449 | 0.26 |
| Firm/Partnership | 219 | 8229109 | 2.50 |

| | | | |
|-----------------------|-------|-----------|-------|
| Individuals | 11775 | 186304402 | 56.59 |
| Joint Stock Companies | 1767 | 118318398 | 35.94 |
| Society/ Association | 361 | 5898204 | 1.79 |
| Trust | 290 | 7714323 | 2.35 |
| Total | 14508 | 329204841 | 100 |

Table 2.6

OWNERSHIP OF 'NEWS & CURRENT AFFAIRS'

NEWSPAPERS

| Form of Ownership | No. of Units | No. of Such Newspapers | Circulation |
|--------------------|--------------|------------------------|-------------|
| Joint Stock | 130 | 1011 | 86267980 |
| Individuals | 937 | 2830 | 65909311 |
| Firms/Partnerships | 21 | 89 | 4429168 |
| Trusts | 10 | 44 | 2356961 |
| Others | 47 | 163 | 8959759 |
| Total | 1145 | 4137 | 167923179 |

TABLE 2.7

**NUMBER OF 'NEWS & CURRENT AFFAIRS' NEWSPAPERS
UNDER COMMON OWNERSHIP UNITS (PERIODICITYWISE)
(2001-2010-11)**

| Year | Dailies, Tri & Bi- weeklies | Weeklies | Others | Total | Growth over previous year |
|------|-----------------------------------|----------|--------|-------|------------------------------|
| 2001 | 668 | 128 | 21 | 817 | 4.52 |

| | | | | | |
|----------------|-------------|------------|------------|-------------|----------|
| 2002-03 | 972 | 268 | 52 | 1292 | 58.14 |
| 2003-04 | 970 | 246 | 86 | 1302 | 0.77 |
| 2004-05 | 870 | 235 | 69 | 1174 | (-) 9.83 |
| 2005-06 | 1106 | 323 | 121 | 1550 | 24.26 |
| 2006-07 | 1257 | 347 | 157 | 1761 | 13.61 |
| 2007-08 | 1485 | 515 | 174 | 2174 | 23.45 |
| 2008-09 | 2021 | 652 | 282 | 2955 | 35.92 |
| 2009-10 | 2367 | 741 | 289 | 3397 | 14.96 |
| 2010-11 | 2801 | 949 | 387 | 4137 | |

Table 2.8

| NUMBER OF NEWSPAPERS | | | | |
|---|------------------------|---|---|--------------|
| UNDER COMMON OWNERSHIP FROM (2001-2010-11) | | | | |
| Year | Number of Units | Number of 'news-interest' newspapers | Number of 'non-news interest' newspapers | Total |
| 2001 | 171 | 817 | 103 | 920 |
| 2002-03 | 351 | 1292 | 126 | 1418 |
| 2003-04 | 332 | 1302 | 96 | 1398 |
| 2004-05 | 307 | 1174 | 101 | 1275 |
| 2005-06 | 427 | 1550 | 167 | 1717 |
| 2006-07 | 504 | 1761 | 245 | 2006 |
| 2007-08 | 609 | 2174 | 247 | 2421 |
| 2008-09 | 818 | 2955 | 125 | 3080 |

| | | | | |
|----------------|-------------|-------------|------------|-------------|
| 2009-10 | 962 | 3397 | 250 | 3647 |
| 2010-11 | 1145 | 4137 | 189 | 4326 |

Table 2.9

| CIRCULATION OF COMMON OWNERSHIP 'NEWS & CURRENT AFFAIRS' DAILIES (2001 to 2010-11) | | |
|---|---------------------|---------------------------------|
| Year | Circulation | Percentage of total Circulation |
| 2001 | 3,84,65,422 | 82.02 |
| 2002-03 | 4,66,61,688 | 63.50 |
| 2003-04 | 4,81,54,936 | 64.45 |
| 2004-05 | 4,59,59,067 | 58.26 |
| 2005-06 | 5,72,55,780 | 64.43 |
| 2006-07 | 6,18,80,553 | 62.61 |
| 2007-08 | 7,08,03,220 | 66.93 |
| 2008-09 | 9,18,01,321 | 67.60 |
| 2009-10 | 11,01,00,057 | 67.83 |
| 2010-11 | 12,61,77,993 | 71.83 |

Table 2.10

| CIRCULATION OF COMMON OWNERSHIP NEWSPAPERS (2000 to 2009-10) | | | | |
|---|--|---|-------------|---------------------------------|
| Year | Circulation of 'news & current affairs' newspapers | Circulation of 'non-news-interest' newspapers | Total | Percentage of total circulation |
| 2001 | 4,68,99,570 | 45,48,353 | 5,14,47,923 | 44.64 |
| 2002-03 | 6,02,78,190 | 54,38,440 | 6,57,16,630 | 46.28 |

| | | | | |
|----------------|---------------------|------------------|---------------------|--------------|
| 2003-04 | 6,39,20,184 | 28,52,434 | 6,67,72,618 | 50.17 |
| 2004-05 | 5,83,99,009 | 42,91,421 | 6,26,90,430 | 37.26 |
| 2005-06 | 7,68,56,479 | 45,42,349 | 8,13,98,828 | 42.52 |
| 2006-07 | 7,87,94,044 | 59,67,656 | 8,47,61,700 | 41.02 |
| 2007-08 | 9,22,78,733 | 76,53,487 | 9,99,32,220 | 48.25 |
| 2008-09 | 11,82,88,183 | 36,43,894 | 12,19,32,077 | 45.86 |
| 2009-10 | 14,57,82,229 | 93,08,136 | 15,50,90,365 | 47.21 |
| 2010-11 | 16,79,23,179 | 64,20,477 | 17,43,43,656 | 51.01 |

TABLE 2.11
CIRCULATION OF 'BIG' & 'MEDIUM' DAILIES
UNDER COMMON OWNERSHIP UNITS
(LANGUAGE-WISE)

| Language | Number of Dailies | Circulation |
|-----------------|--------------------------|--------------------|
| ASSAMESE | 9 | 426664 |
| BENGALI | 12 | 2777902 |
| BILINGUAL | 17 | 757463 |
| BODO | 1 | 33500 |
| DOGRI | 0 | 0 |
| ENGLISH | 153 | 18305840 |
| GUJARATI | 49 | 4732089 |
| HINDI | 745 | 48770831 |
| KANNADA | 23 | 1621509 |
| KASHMIRI | 0 | 0 |
| KONKANI | 0 | 0 |
| MAITHILI | 0 | 0 |
| MALAYALAM | 58 | 4919374 |
| MANIPURI | 2 | 59588 |
| MARATHI | 52 | 4900389 |
| MULTILINGUAL | 0 | 0 |
| NEPALI | 1 | 37858 |
| ORIYA | 27 | 2418274 |
| OTHERS | 4 | 108868 |
| PUNJABI | 13 | 947489 |
| SANSKRIT | 0 | 0 |

| | | |
|--------|------|-----------|
| SINDHI | 4 | 211466 |
| TAMIL | 44 | 3719634 |
| TELUGU | 134 | 8580817 |
| URDU | 166 | 8241589 |
| Total | 1514 | 111571144 |

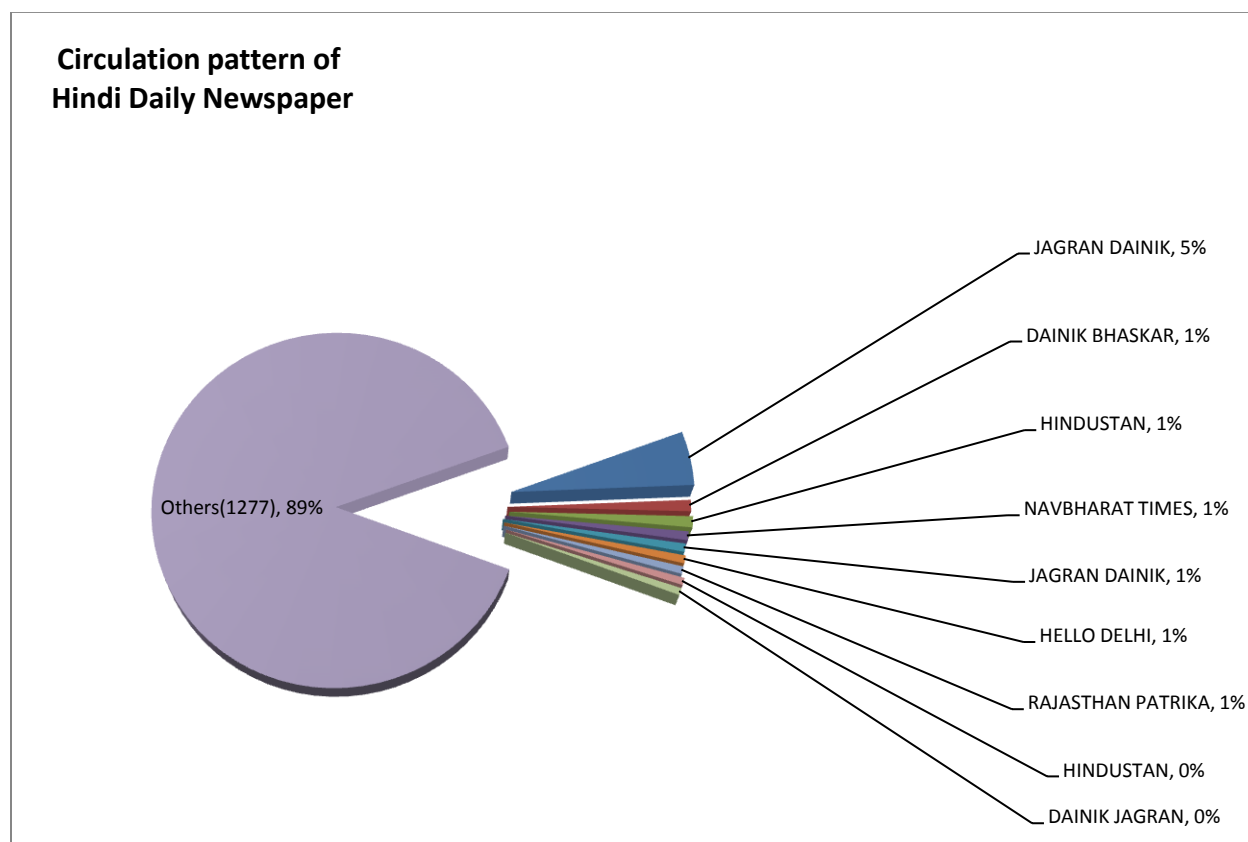
Language-wise Percent Market Share of Daily Newspaper

(Based on data received from RNI)

1. Language: Hindi

| | |
|---------------------------------------|--|
| Relevant Market | Delhi, Haryana, Chhattisgarh, UT of Chandigarh, Rajasthan, Uttarakhand, Uttar Pradesh, Madhya Pradesh, Himachal Pradesh, Jharkhand, Maharashtra, Punjab, Bihar |
| Periodicity | Daily |
| Total No of Hindi Newspapers | 1314 |
| Total Circulation of Hindi Newspapers | 56874187 |

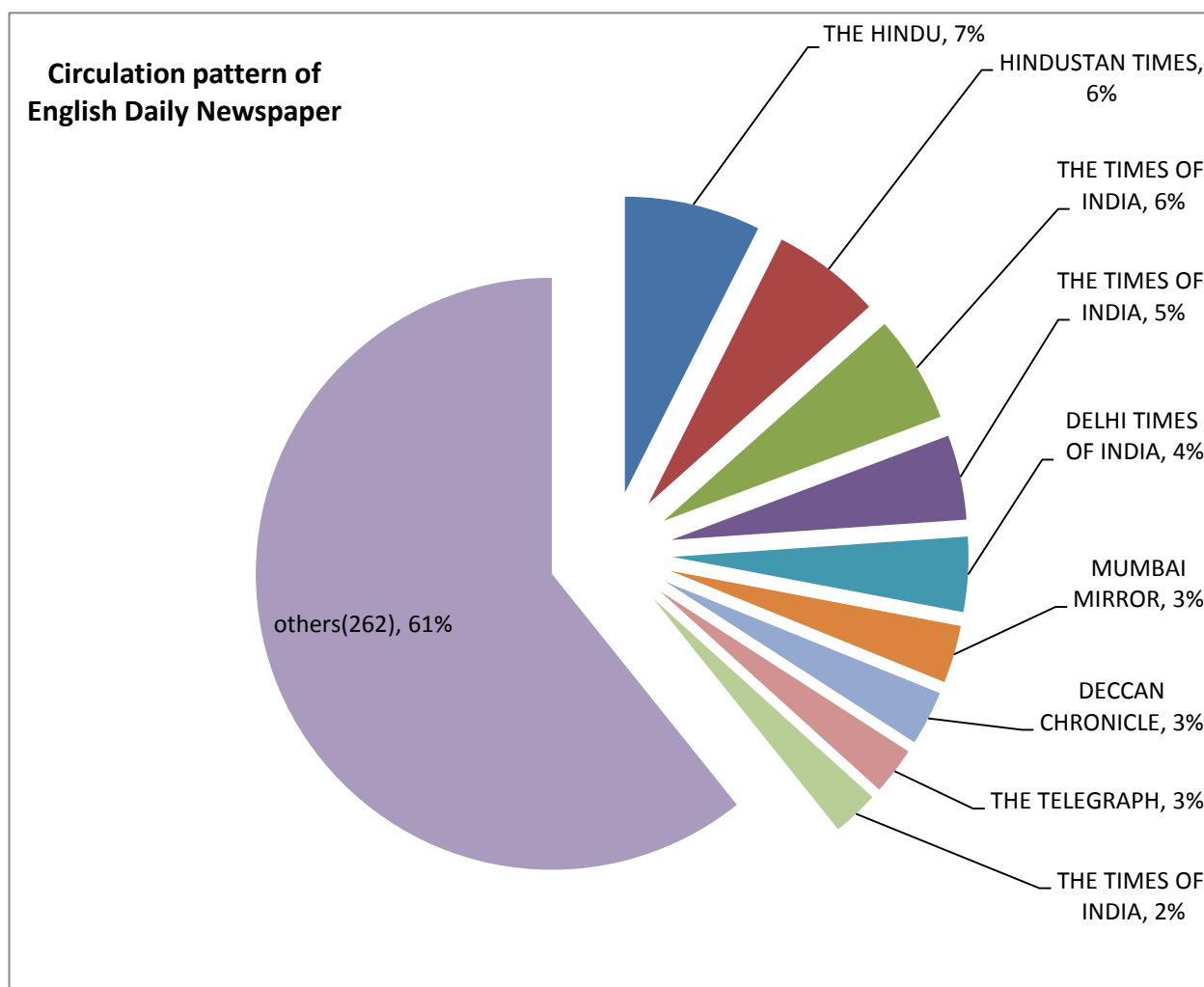
Market share of top 10 Hindi Daily Newspaper based on their circulation pattern.



2. Language: English

| | |
|--------------------------------------|-----------|
| Relevant Market | All India |
| Periodicity | Daily |
| Total No of English Newspapers | 271 |
| Total English Newspapers Circulation | 19927005 |

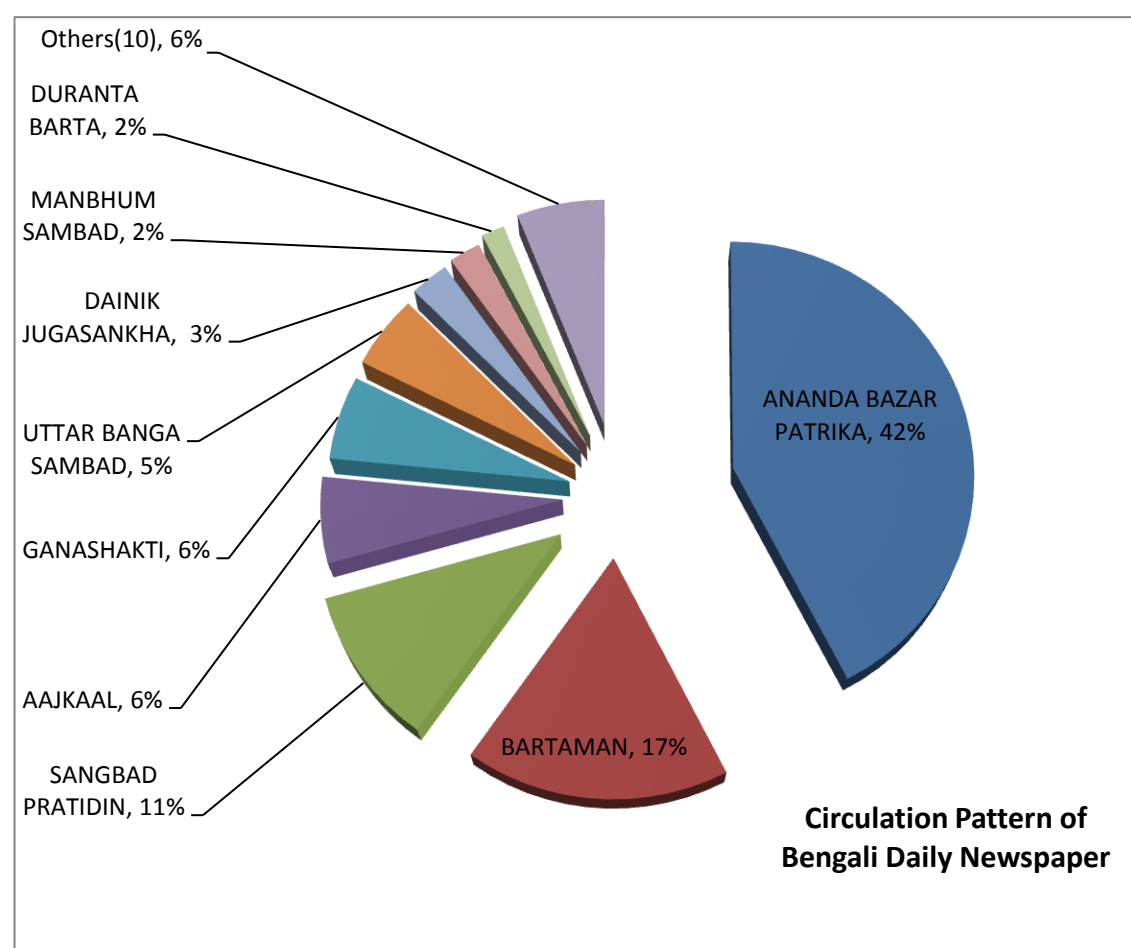
Market share of top 10 English Daily Newspaper based on their circulation pattern.



3. Language: Bengali

| | |
|------------------------------|---------------------|
| Relevant Market | Assam & West Bengal |
| Periodicity | Daily |
| Total No of Newspapers | 19 |
| Total Newspapers Circulation | 2845130 |

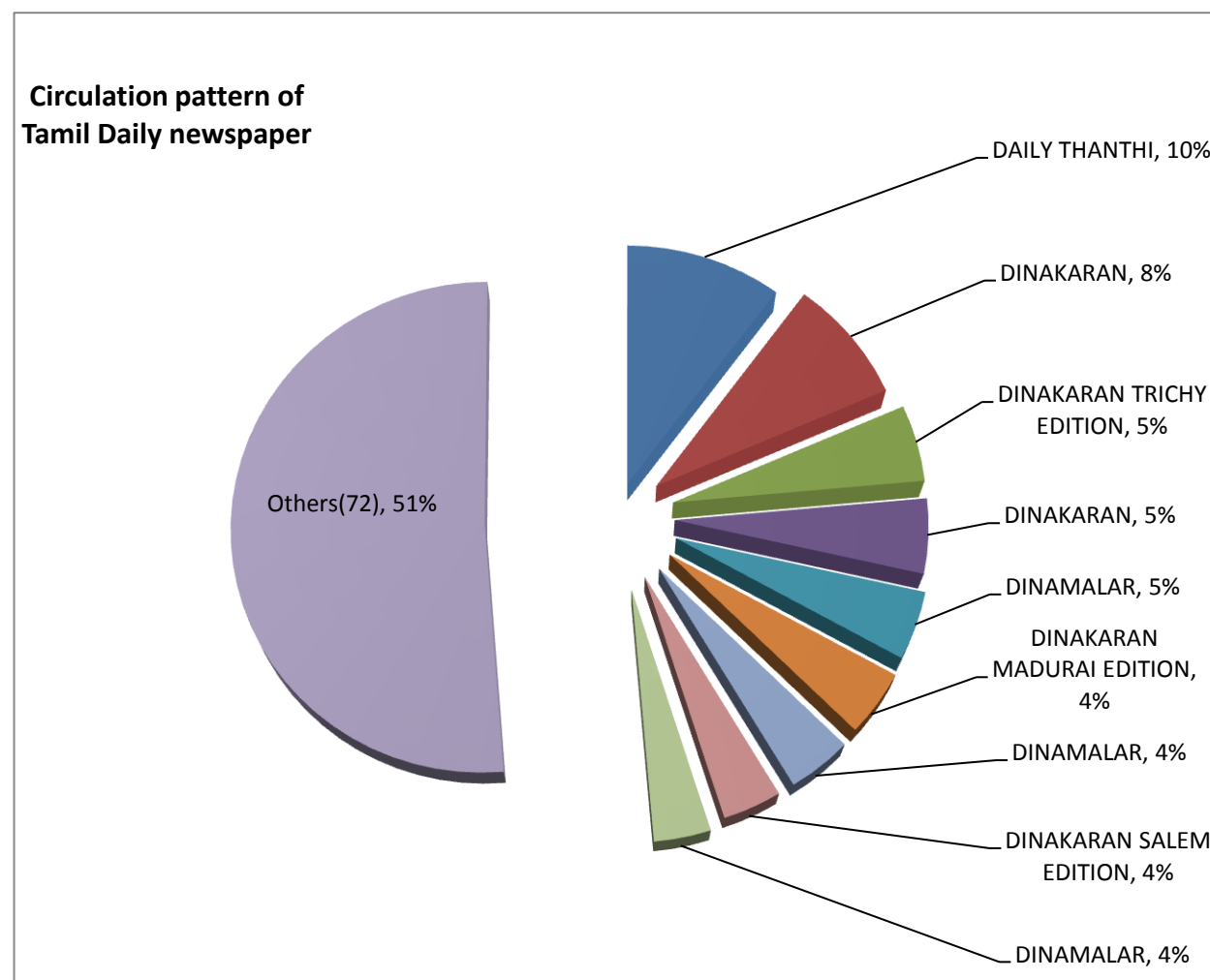
Market share of top 10 Bengali Daily Newspaper based on their circulation pattern



4. Language: Tamil

| | |
|------------------------------------|------------|
| Relevant Market | Tamil Nadu |
| Periodicity | Daily |
| Total No of Tamil Newspapers | 81 |
| Total Tamil Newspapers Circulation | 3769123 |

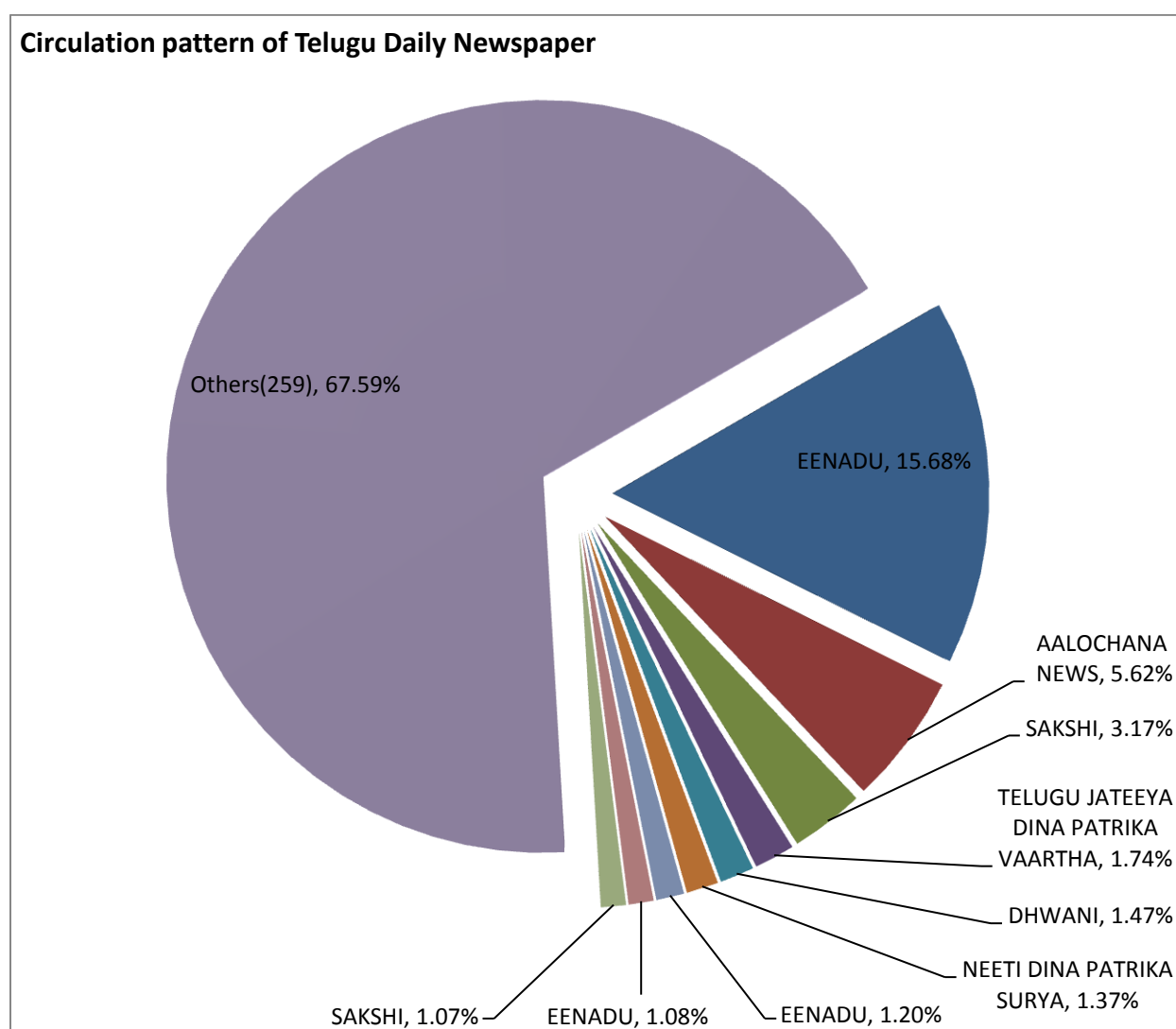
Market share of top 10 Bengali Daily Newspaper based on their circulation pattern



5. Language: Telugu

| | |
|-------------------------------------|----------------|
| Relevant Market | Andhra Pradesh |
| Periodicity | Daily |
| Total No of Telugu Newspapers | 268 |
| Total Telugu Newspapers Circulation | 10679169 |

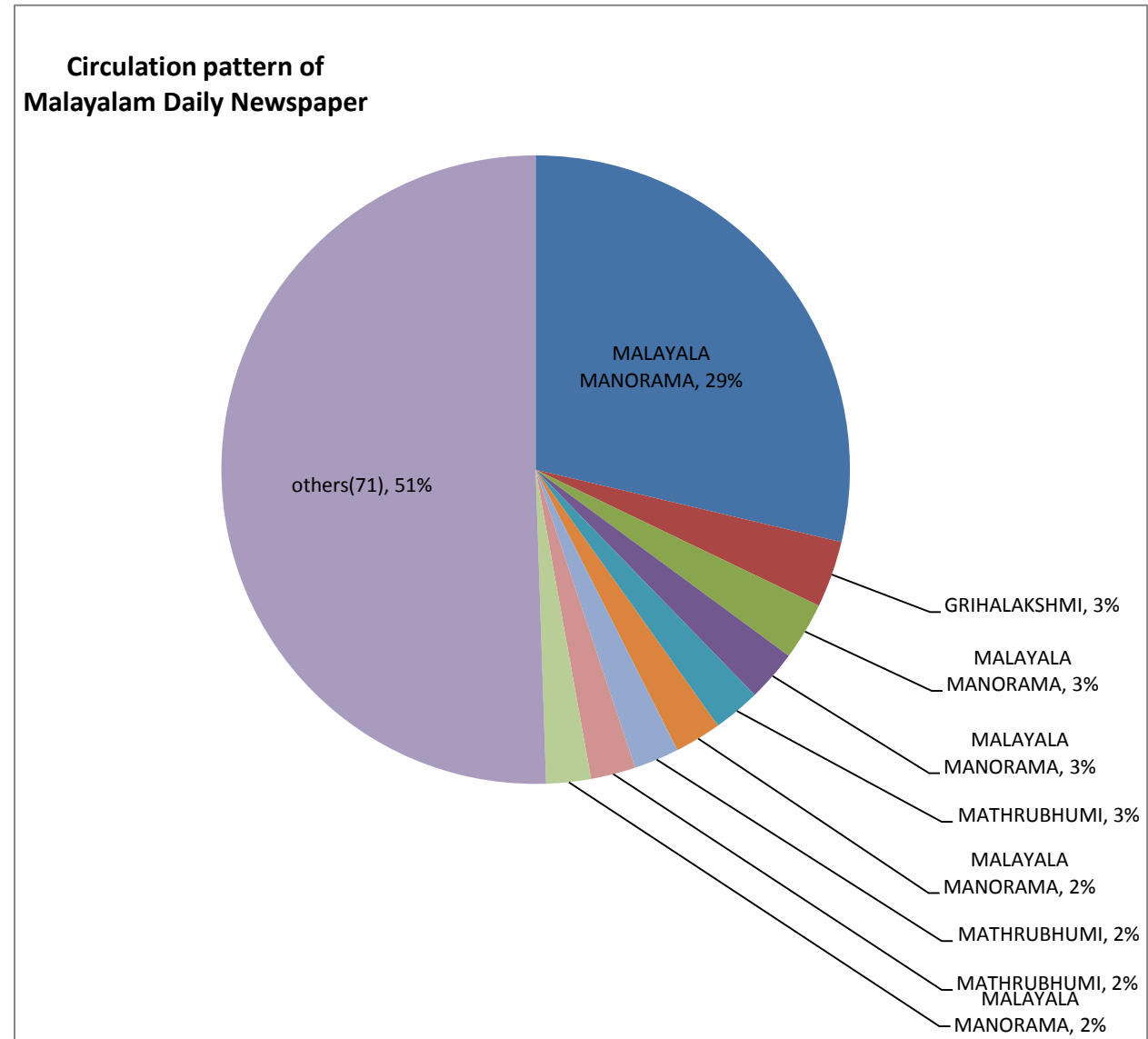
Market share of top 10 Bengali Daily Newspaper based on their circulation pattern



6. Language: Malayalam

| | |
|--|---------|
| Relevant Market | Kerala |
| Periodicity | Daily |
| Total No of Malayalam Newspapers | 80 |
| Total Malayalam Newspapers Circulation | 6743893 |

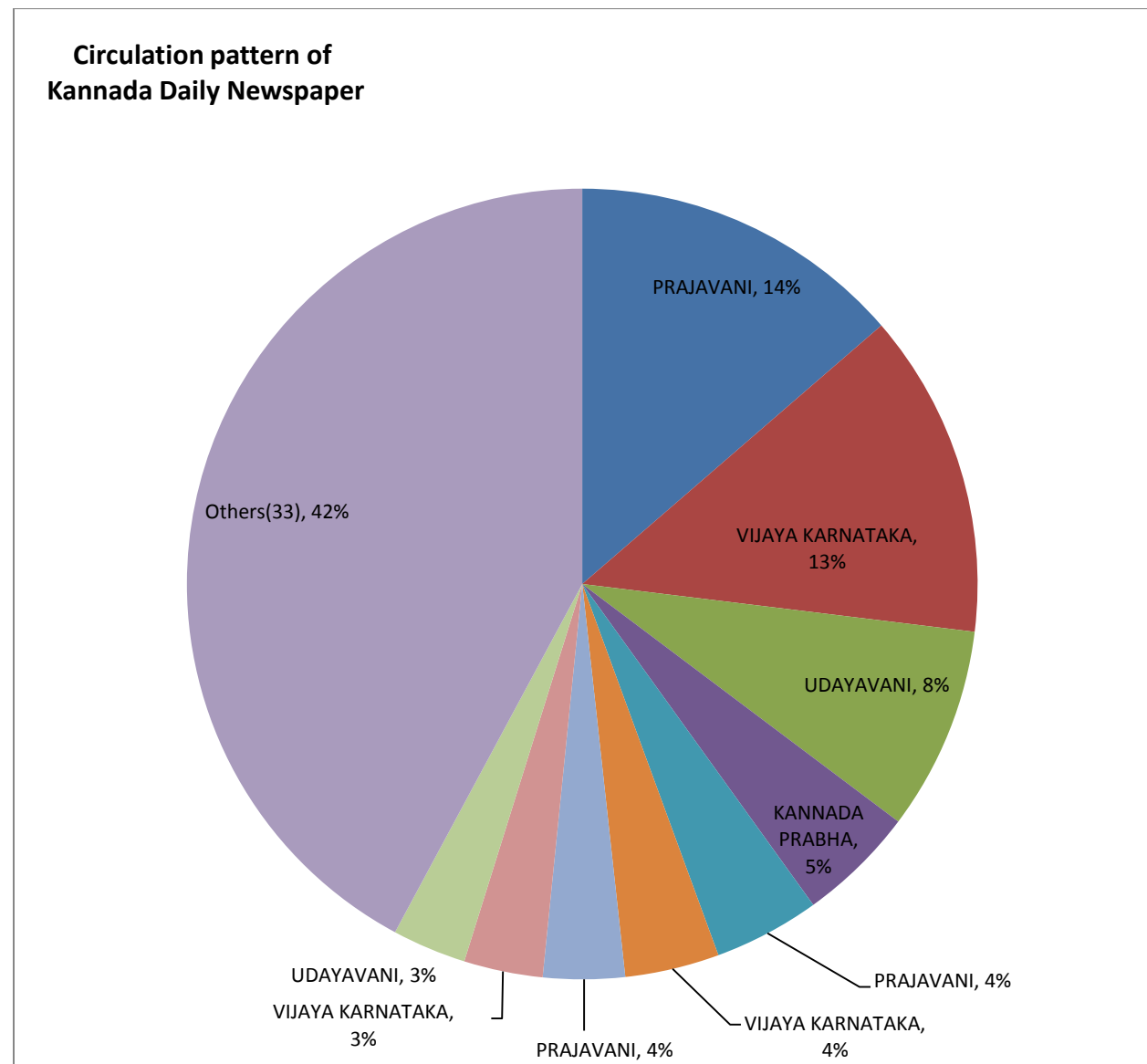
Market share of top 10 Malayalam Daily Newspaper based on their circulation pattern



7. Language: Kannada

| | |
|--------------------------------------|------------------|
| Relevant Market | Karnataka |
| Periodicity | Daily |
| Total No of Kannada Newspapers | 42 |
| Total Kannada Newspapers Circulation | 1848830 |

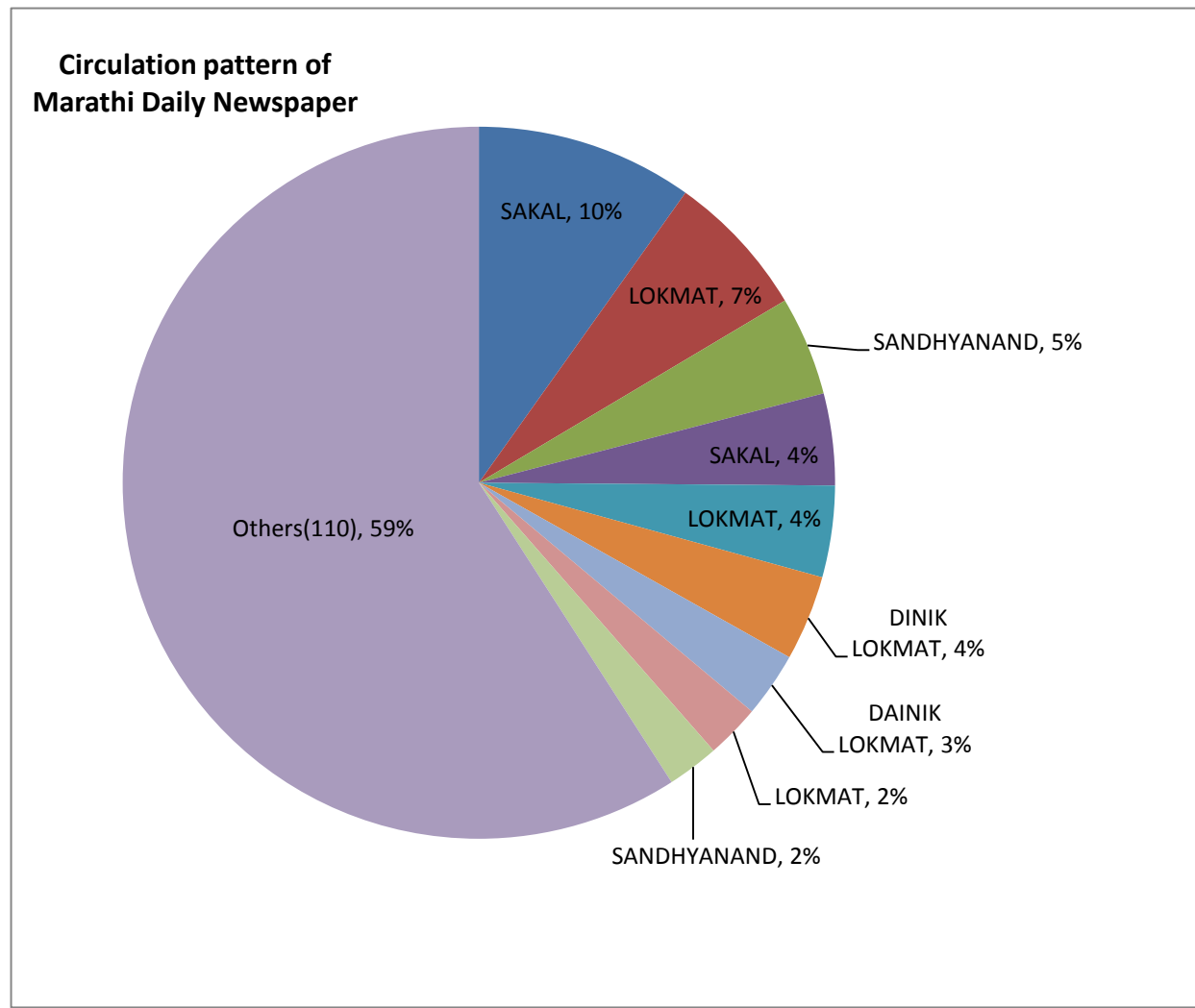
Market share of top 10 Kannada Daily Newspaper based on their circulation pattern



8. Language: Marathi

| | |
|--------------------------------------|------------------|
| Relevant Market | Maharashtra, Goa |
| Periodicity | Daily |
| Total No of Marathi Newspapers | 119 |
| Total Marathi Newspapers Circulation | 5657634 |

Market share of top 10 Marathi Daily Newspaper based on their circulation pattern



9. Language: Oriya

| | |
|------------------------------------|---------|
| Relevant Market | Orissa |
| Periodicity | Daily |
| Total No of Oriya Newspapers | 41 |
| Total Oriya Newspapers Circulation | 2661932 |

Market share of top 10 Oriya Daily Newspaper based on their circulation pattern

