

We thank TRAI for inviting comments, and have the following suggestions and comments, which we hope will be useful towards building effective media pluralism. We have chosen to confine ourselves to some brief general comments, and then to answer questions 2, 5 and 28 owing to our limited resources but will be happy to offer more extensive comments in the future if the need should arise.

Preliminary comments

We agree that media pluralism is an important part of building an effective public sphere which will further democracy. Our comments on this paper are however prefaced by two significant concerns, which we see as key to creation of such pluralism:

1. *Creation of media pluralism will require other measures in addition to restriction of cross-ownership*

It is important to note that while restriction of cross-ownership reduces dominance of a few voices or interests over the media, it will not necessarily create pluralism. Therefore, additional measures will need to be taken to proactively introduce a diversity of perspectives in the public sphere. In particular, such measures should seek better representation of marginalised subjects and points of view. For instance, it may be worthwhile exploring ways to incentivize better representation of women's perspectives and dalit perspectives in the media.

2. *Independent Regulator*

Additionally, we would also like to note that media pluralism has always been seen as a part of media freedom.¹ Therefore, it is important to ensure that any mechanism directed at building pluralism does not end up compromising media freedom by subjecting media owners to greater state control. Any mechanism directed at achieving media pluralism must be appropriately calibrated so that we have a stronger and not a weaker public sphere.

It must be noted that most of the jurisdictions used for comparative analysis have independent regulators. This is true of the United Kingdom, the United States of America, South Africa, Germany, Australia, and France.

An independent, transparent and accountable regulator is better suited to exercise discretionary power over the media since there is less danger of its attempting to further political interests or of use of state power to chill criticism of the government. Offering the government the power to chill criticism from the media would be detrimental to the public sphere and would undermine media freedom substantially.

It is therefore important to create an independent regulator that will supervise media plurality if the policy contemplated in this report is to be put in place.

¹ It is, for example, coupled with media freedom in the Charter of Fundamental Rights of the European Union, which says that "the freedom and pluralism of the media shall be respected."

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.

This may have been useful if the regulator under question is completely independent and is required to be transparent and accountable for such decisions. As it stands, this would offer the state excessive power over the media which is not desirable for democracy.

Even an independent regulator may end up adversely affecting media freedom if permitted to recommend disqualification of entities at the first instance. However, such a recommendation may not be excessive if it comes after a prescribed series of warnings and other escalating action, along with a right to respond and be heard, to help safeguard media freedom.

If the licensor is empowered to *suo motu* disqualify entities, this will create a substantial risk of abuse of power and will therefore be detrimental to media freedom. It would offer the executive significant power over the media, and therefore affect the independence of the media.

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.

All genres should be considered. While news and current affairs have more obviously and transparently political content, entertainment channels can also have embedded points of view. For example, entertainment content that portray women as mostly obedient and subservient, or stereotype certain castes or communities in particular ways, make a more subtle political statement.

In the age of product placement, this also extends to corporations. Entertainment content could focus on certain products or lifestyles in the hope of expanding the consumer base.

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

If an entity is allowed to have such an interest, it must be along with strict common carriage regulations and close monitoring by the regulator to ensure that there is no abuse of market power.