Information note to the Press (Press Release No. 51/2014)

For Immediate release

TELECOM REGULATORY AUTHORITY OF INDIA

TRAI releases Recommendations on "Issues relating to Media Ownership".

New Delhi, 12 August, 2014 - The Telecom Regulatory Authority has today released the Recommendations on the Issues relating to Media Ownership. The recommendations cover - a comprehensive definition for control; cross-media ownership; vertical integration; and internal plurality.

The key recommendations are:

1. A comprehensive definition of 'control', in line with earlier recommendations proposed.

Cross-Media Ownership

2. The News and Current Affairs genre is of utmost importance and direct relevance to the plurality and diversity of viewpoints and, hence, should be considered as the relevant genre in the product market for formulating cross-media ownership rules.
3. Television and print should be considered as the relevant segments in the product market. For print, only daily newspapers, including business and financial newspapers, should be considered. Once private radio channels are allowed to air news generated on their own and become significant in the relevant market, a review of the cross-media ownership rules should be undertaken.
4. The relevant geographic market should be defined in terms of the language and the State(s) in which that language is spoken in majority.
5. A combination of reach and volume of consumption metrics should be used for computing market shares for the television segment. For the print segment, using only the reach metric is sufficient.
6. For calculating market shares, in the relevant market for the television segment, the GRP of a channel should be compared with the sum of the GRP ratings of all the channels in the relevant market and the market share of an entity would be the sum of the market shares of all the channels controlled by it.

7. Similarly, in the relevant market for the print segment, the market share of a newspaper would be the circulation of that newspaper compared with the combined circulation of all newspapers in the relevant market, and the market share of an entity would the sum of the circulation of all the newspapers controlled by it.
8. The Herfindahl Hirschman Index (HHI) be adopted to measure concentration in a media segment in a relevant market.
9. A rule based on HHI be implemented, i.e., if the television as well as newspaper markets are concentrated (HHI> 1800 in each), then, an entity contributing more than 1000 to the HHI of the television market, cannot contribute more than 1000 towards HHI in the newspaper market as well, and vice-versa. If it does so, it will have to dilute its control in one of the two segments. This rule applies only if the HHI thresholds are violated consecutively for two years.
10. The cross-media ownership rules be reviewed three years after the announcement of the rules by the licensor and once every three years thereafter. The existing entities in the media sector which are in breach of the rules, should be given a maximum period of one year to comply with the rules.
11. Mergers and Acquisitions (M&A) in the media sector will be permitted only to the extent that the rule based on HHI is not breached.
12. Detailed reporting requirements, which are to be made on an annual basis to the licensor and the regulator, worked out.

Vertical Integration amongst Media Entities

13. Reiterates its recommendations on vertical integration amongst broadcasters and DPOs as contained in its "Recommendations on Issues related to New DTH Licenses" dated July 23, 2014 and recommends early notification and implementation of the same.

Issues affecting Internal Plurality

14. Given that about six years have elapsed without any concrete action being taken by the Government, strongly recommends that its Recommendations of 12 November 2008 and 28 December 2012 may be implemented forthwith. These Recommendations inter alia specified:
    (a) the entities (political bodies, religious bodies, urban, local, panchayati raj, and other publicly funded bodies, and Central and State Government ministries, departments, companies, undertakings, joint ventures, and government-funded entities and

affiliates) to be barred from entry into broadcasting and TV channel distribution sectors;

(b) that in case permission to any such organisations have already been granted an appropriate exit route is to be provided;

(c) that the arm's length relationship between Prasar Bharati and the Government be further strengthened and that such measures should ensure functional independence and autonomy of Prasar Bharati ; and

(d) that pending enactment of any new legislation on broadcasting, specified disqualifications for the entities in (a) above from entering into broadcasting and/or TV channel distribution activities should be implemented through executive decision by incorporating the disqualifications into Rules, Regulations and Guidelines as necessary.

15. Even surrogates of the entities listed above should be barred from entry into broadcasting and TV channel distribution sectors.

16. Given the inherent conflict of interest arising from practices such as "private treaties", such practices be immediately proscribed through orders of the PCI or through statutory rules and regulations. This would cover all forms of treaties including (i) advertising in exchange for the equity of the company advertised; (ii) advertising in exchange for favourable coverage/ publicity; (iii) exclusive advertising rights in exchange for favourable coverage.

17. "Advertorials", or for that matter any content which is paid for, a clear disclaimer should be mandated, to be printed in bold letters, stating that the succeeding content has been paid for. Placing such a disclaimer in fine print will not suffice. Action on advertorials and other material which is paid for may be taken immediately.

18. On "paid news", in addition to the above, it is imperative that liability reposes in both parties to the transaction if it is tried to be passed off as news.

19. On grounds of the inherent conflict of interest, ownership restrictions on corporates entering the media should be seriously considered by the Government and the regulator. This may entail restricting the amount of equity holding/ loans by a corporate in a media company, viz., to comply with provisions relating to control.

20. Editorial independence must be ensured through a regulatory framework.

21. With respect to the "media regulator", the Authority recommends that:

(a) Government should not regulate the media;

(b) There should be a single regulatory authority for TV and print mediums;

(c) The regulatory body should consist of eminent persons from different walks of life, including the media. It should be manned predominantly by eminent non-media persons;

(d) The appointments to the regulatory body should be done through a just, fair, transparent and impartial process;

(e) The "media regulator" shall inter alia entertain complaints on "paid news"; "private treaties"; issues related to editorial independence; etc, investigate the complaints and shall have the power to impose and enforce an appropriate regime of penalties.

22. The above recommendations, once implemented, will address the immediate objective of curbing unhealthy media practices. The Authority notes that there would still exist the need for a comprehensive evaluation of the legislative and legal framework in order to establish a robust institutional mechanism for the long term. The Authority, therefore, recommends that a Commission, perhaps headed by a retired Supreme Court Judge, be set up to comprehensively examine the various issues relating to the media, including the role and performance of various existing institutions, and the way forward. More than 5 years have elapsed since the Authority released its 'Recommendations on Media Ownership' on 25 February 2009. The situation has become graver. Clear time-lines may, therefore, be indicated to the Commission so appointed.

Full text of the Recommendation is available on TRAI's website www.trai.gov.in.

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