Response from The Malayala Manorama Co Private Limited dated 7th June 2022 on Telecom Regulatory Authority of India Consultation paper on issues relating to media ownership dated 12th April 2022

We are filing our general response on the consultation paper, which are followed by comments on the specific issues raised in the Consultation Paper.

General Response

The rationale behind the consultation paper on issues relating to media ownership is based on the age-old thesis, "One Owner One Voice". However, in the new digital age and multi lingual Indian context, this theory is not appropriate nor feasible. In the new digital age, big tech companies/digital aggregators have emerged as the de facto regulators, deciding on what content people see and when, based on complex algorithms. For example : Google's dominance in search (including in the mobile sector) accords Google the power to determine who wins and who loses – transforming Google from a gateway to a gatekeeper. The traditional newspaper publishers and broadcasters are at the mercy of the big tech companies/digital aggregators for traffic to their website and also for the advertising revenue. These big tech companies/digital aggregators are working in a space which is not yet regulated.

A person with a smart phone is now able to operate a news channel and air his views however bizarre it is. With the advent of Twitter, Facebook, You Tube, Whatsapp and similar technologies, it is impossible to contain the news flow.

While almost every nation in the world has a national language; India is an exception. The official language of the nation is Hindi and for official purposes, English is continued to be used. Apart from these languages, there are 22 different languages that have also been recognized by the Constitution of India. As such India is a diverse market with several languages and dialects being spoken across the length and breadth of the country. Anyone language or dialect has little or no ability to influence the people across the consumption set.

The general public of our country is consuming news/information not only in print form but also through television, mobile, radio, internet & social networking websites, etc. In the dissemination of news, the private sector companies are co-existing with the government-run institutions.

There are about 1,43,423 registered publications in India. In this sector, both central and state government have their own presence. At present, about 32,680 newspaper publications are published in 26 languages by all the stakeholders put together.

The largest radio operator in the country, All India Radio is broadcasting in 23 languages and 179 dialects. At present, there are about 34 private FM broadcasters operating 385 community radio stations in India. The dissemination of news through radio is the monopoly of All India Radio. As per the licensing conditions, private radio channels are permitted to broadcast only news bulletins of All India Radio in exactly the same format. Ideally, radio should be kept out of this consultation paper as private operators are not permitted to broadcast their own news content. All India Radio is the only operator reaching 92% of the country's area and catering to the need of 99% of the Indian population. Further, the reach of All India Radio vehemently states that the government has a monopoly over the sector.

In the television sector, Doordharsan over the years, have transformed into one of the largest broadcasters in the country with 23 satellite channels, and 67 studio centres providing TV coverage. In the private sector, there are about 901 private permitted channels in India.

At this juncture it is pertinent to note that print, television and radio are highly regulated with proper licensing to be obtained from various ministries and the contents are monitored by Government.

In fact, the majority of the public is moving away from the traditional forms of media like newspapers that have limitations of reach and circulation towards faster, easily accessible, and more impact internet-based media websites, blogs, social media, etc. On the digital front, all the major government ministries have their own websites. Nowadays Ministers and government officials in key positions are well connected to the general public through their social media handles and all-important decisions or news are published by the officials immediately. Every media company, whether in print or television, is required to have a corresponding website to cater to the technologically savvy end consumer i.e. the public. Apart from this, there are numerous news channels operating through various social media properties.

We would like to point out that the same news content is viewed by consumers using different media platforms. This choice of the consumers shall not be possible if media ownership restrictions are in place. If media ownership restrictions are imposed, the same shall not be in the interest of the consumers and shall adversely affect their choice.

Cross media ownership restrictions were imposed in a few countries having one language and only a few newspapers. However, this kind of restriction was never imposed in countries in which both the government and the private sector was actively involved in the dissemination of the news. Now, regulators and adjudicating authorities in Western countries have already accepted the elimination of the blanket ban on cross media ownership.

Given the fluid nature of media engagement by the consumer in India, it is impossible to establish monopoly/influence. Consumer preferences are changing constantly. Young people spend a significant amount of their time watching television, playing online games, chatting, blogging, listening to music, posting photos of themselves and searching for other people with whom to communicate online. They rely heavily on information circulated online for their knowledge of the world and how they perceive reality. Taking into consideration consumer preferences, and the production quality, etc it is critical for the private sector entities to make investments in Print, TV, Radio, Internet, and Distribution. With the rapid change in technology and mediums of distribution, it is a logical presumption that most of the investment and innovation in the sector will come from the traditional media company sector i.e. print, television and radio. Further considering the sheer number of players operating in media and the competitive environment which exists in India, there appears to be no requirement for devising any additional ways and means of ensuring plurality. Any restriction in the media ownership may slow down the growth rate of the sector. Post covid 19, there was huge decrease in the circulation of the newspaper in India. Imposing restriction on entities from entering the media segment will slow down the organic growth of the media sector.

Earlier a consumer used to decide which paper or channel needs to be subscribed to. With the advent of digital platforms, the consumption, distribution, and production of news has been altered fundamentally. Now news through internet is getting disseminated by various digital aggregators/big tech companies. These digital aggregators have become favorites of the internet savvy consumers. These digital platforms provide a point of access to news – a function formerly performed by print publications/media houses. News is a big source of traffic for all internet behemoths namely Google, Facebook, etc. Around 40% of the trending queries on Google are news-related. For many, social media has become their main source of news. These unregulated big tech companies'/service providers are favorites of the younger generation consumers. Big tech companies today have emerged as the de facto regulators, deciding on what content people see and when based on complex algorithms. Big Tech companies holds tremendous power over the fate of publishers and other content creators, services, etc on the Internet. Users depend on big tech companies to find information, and publishers depend on big tech companies to direct traffic towards their sites, so that they can earn the revenue that they need in order to innovate and to provide the content that users want. Google as an example controls an individual's/company's access to information. If Google decides to block some piece of content, it can render that information effectively invisible to much of the world. Likewise, Facebook controls much of the world's interpersonal communications, so if Facebook removes a person's account, that person can't connect to the personal network. Thus these big tech companies have to be referred to as "Kingmaker" of the Internet. What a viewer should see or what a consumer consumes is decided by these companies through the algorithms. They even have the ability to influence the thinking ability of the general public. Potential control is exercised by these companies in the market and the abuse practiced by them need to be addressed. For example - the short summaries or extracts of text from a News article that accompanies the link to a news story and are displayed when a consumer searches for a news story. Many a time due to the size of the snippet, the user is able to understand the gist of the news article and never click the link to visit the website of the Newspaper publisher or the content creator.

Though in the consultation paper a passing remark is made, issues pertaining to the abuse of power by these big tech companies were not raised in this document. In the practical sense, the government is not having any control over the news aggregators / big tech companies who are influencing the general masses from outside India. In the present scenario, regulatory framework should be put into place for regulating the activities of the big tech companies.

Without addressing the basic issues during these technologically advanced times, reverting to control of media ownership is a frivolous exercise which will not serve any purpose, other than to control the traditional newspapers to diversify.

<u>Specific Response</u>

Q1. Media industry has expanded in an unprecedented manner. In addition to conventional television & print medium, the industry now comprises news & media-based portals, IP based website/ video portals (including You-tube/ Facebook/ Twitter/ Instagram/ Apps other OTT portals etc.). Considering overall scenario, do you think there is a need for monitoring cross media ownership and Control? Please provide detailed reasoning to support your answer.

<u>Response</u>

In India, the government and private players are directly involved in the dissemination of the news. There is no need to monitor cross-media ownership and control, as the notion of "One Media One Voice" will not come into play. Given the fluid nature of media engagement by the consumer, it is practically impossible to establish monopolies/influence over a period of time as consumer preferences are changing constantly. Over the years, the reach of print and television has reduced drastically.

Total Television Ratings : Kerala					
Year	Months	Total TV Avg. Wkly GRPs	Avg. Rat%	Avg. Daily Reach%	Avg. ATS (Avg. Time Spent) HH:MM:SS per day
2018	Jan-Apr	3,842	11.4	72%	03:48:35
2019	Jan-Apr	3,633	10.8	71%	03:38:01
2020	Jan-Apr	4,082	12.2	72%	04:04:26
2021	Jan-Apr	3,582	10.7	68%	03:47:28
2022	Jan-Apr	3,258	10.0	66%	03:31:01
Source : BARC data					
2+ years, Kerala					
All Figures are Avg. Total Television Ratings					

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Further, India is a diverse market with several languages and dialects being spoken across the length and breadth of the country. Any one language or dialect has little ability to influence the people across the consumption set. Even within the same language, the younger consumer may be consuming news through their internet-enabled mobile device and the older consumer may be reading the newspaper for news. It is not possible to make a case that anyone entity in India can have influence over the entire media segment. Considering the sheer number of players operating in various medias and the competitive environment which exists, there appears to be no requirement for monitoring cross-media ownership and control.

Cross-media restriction was passed by a few western countries several decades ago. In all those countries, there were a few newspapers but only one language. Even those countries are now discussing the deletion of the legislation as the same has now become redundant. However, this kind of restriction was never imposed in countries in which both the government and private sector was actively involved in the dissemination of the news.

The print, television and radio mediums are already a highly regulated sector with proper licensing obtained from various ministries. If cross-media ownership restrictions are imposed, the same shall not be in the interest of the consumers and shall adversely affect their choice. No media company can survive in today's evolving market condition if it does not have access to the multiple medium for presenting content in form of text, audio or video. The same news content is viewed by consumers using different media platforms and this choice of the consumer will be adversely affected by cross-media ownership restrictions. Further, even as per the consultation paper the entities having cross media interest is very minimal. Hence separate legislation to monitor cross media ownership and control will be infructuous.

Q2. Media has the capacity to influence opinion of masses, more so the news media. Should there be a common mechanism to monitor ownership of print, television, radio, or other internet-based news media?

Response

With the advent of the digital era and social media platforms like facebook, Whatsapp, etc, the prominence of the traditional news media like newspapers and television influencing the opinion of the masses has long-gone. Post covid 19 pandemic, the overall percentage of people consuming news through social media has drastically increased. In the digital century, algorithms implemented by news aggregators and various tech giants like Google, Facebook, etc control what a viewer should see or what a consumer should consume. Now these big tech companies, decides which news article needs to be seen by a viewer. In the present situation, it is big tech companies that influence the opinion of the masses. The operations of these big tech companies are entirely unregulated. Many a time these companies are incorporated in overseas nations and operate outside the purview of the Indian law enforcement agencies.

There are numerous unregistered news content creators, who are disseminating news content through various news aggregator platforms, like youtube, social media properties, etc. Never has it been so easy to access, publish and share information that anyone can create, within minutes and publish it anonymously on several digital platforms. Many of these contents creators which includes fanatic groups are disseminating news without even verifying the authenticity of the same. In an age of instant internet access and social media platforms, news is shared to millions at the touch of a button. In a small geographic area like Kerala with approximately 3 crore Malayalam speaking residents, there are more than 250 App's disseminating Malayalam news content listed in the Google Play store. Upon making a general search of the word "Malayalam News" in Google, more than 50 different websites were seen. In case we explore the social media entirely, there are countless number of pages disseminating news bulletins. Their owners' details are never disclosed. Hence legislation should be brought to make their business affairs as transparent as the print, television, and radio industry in our country.

As far as print, television, and radio, the industry is already well regulated through a separate set of legislation. For example : The existing regulatory framework for television such as policy guidelines for down-linking of television channels and policy guidelines for up-linking of television channels from India already lay down exhaustive parameters whereby an applicant company has to make full disclosure of its equity, directors, shareholder agreements, foreign direct investments, etc. The permission to down-link/up-link is granted only after the submission of this information. Keeping in mind that there is already an exhaustive process to get a license/permission, there appears to be no requirement to lay down additional parameters or disclosures.

a. If yes, elaborate on the Authority, structure and mechanism of such monitoring mechanism/ regime?

b. If no, should there be a self-regulatory mechanism by the industry? What should be the mechanism for defining and implementing such industry based self-regulatory regime? In case some players do not follow the self-regulation, what should be the procedure for enforcing such regulations?

Response

Self-Regulatory regime is already there in place and even the courts in India have recognized their contribution in controlling the industry : (1) For newspaper – Press Council of India and Indian Newspaper Society; (2) For television channel – Indian Broadcasting and Digital Foundation, News Broadcasters and Digital Association and News Broadcasters Federation, (4) For Radio – Association of Radio Operators India, and (5) For Internet based Indian news media – Internet And Mobile Association of India, Web Journalists Standards Authority, Digital News Publishers Association, etc. Further with the vast power of the Ministry of Information and Broadcasting many a time, they have imposed blackout directions against broadcasters.

The dissemination of News through internet is now controlled by various news aggregators and dominated by big tech companies like Google, Facebook, etc. Potential control is exercised by these companies in the market and the abuse practiced by them needs to be addressed. Though in the consultation paper a passing remark is made, issues pertaining to abuse of power by these companies are not raised in the document. In the practical sense, the government is not having any control over the news aggregators / big tech companies who are influencing the general masses. Further it is through this unregulated sector that fake news is getting disseminated whereby the well-being of the society is being effected.. Never has it been so easy to access, publish and share information that anyone can create, within minutes and anonymously publish on digital platforms. Many of these contents creators are disseminating news without even verifying the authenticity of the same. In an age of instant internet access and social media platforms, these fake news created without any verification is shared to millions at the touch of a button.

Q3. There are regulatory agencies like CCI and SEBI among others that monitor and regulate mergers, acquisitions, and takeovers. Is there a need for any additional regulatory/ monitoring mechanism? Do you think there's a need to monitor takeovers, acquisitions of media companies, especially the news media companies?

<u>Response</u>

Presently, The Competition Commission of India, examines all mergers and acquisitions, ownership, and market share-based issues of equity that result in monopoly or abuse of dominant position. Therefore, there is no plausible reason for parallel regulations or rules to be laid down for one sector in this regard. Further, Ministry of Information and Broadcasting is also exercising substantial control over the existing media companies particularly TV and Radio. Whenever there is any change in the license issued by the Ministry of Information and Broadcasting, the same need to be approved by the ministry again.

3.1 If yes, which agency/ ministry should be entrusted with the task of such data collection, regulation & monitoring?

a. Whether such monitoring/ control be ex-ante as is the case with combinations in the Competition Act 2002?

b. What should be the procedure of reporting and monitoring?

What should be the periodicity of such reporting?

c. What should be the powers of the concerned authority for enforcing regulatory provisions, inter-alia including imposition of financial disincentives, cancellation of license/registration etc.?

Response

Print, television and radio are highly regulated with proper licensing to be obtained from various ministries. They are bound by various guidelines issued by the respective ministries and self-regulatory industry bodies. Even the extended arm of Print, television and radio available on internet is also abiding by the above mentioned guidelines. The present legislation itself give the relevant departments vast power regulate any entity. For example – in television sector many a times the Ministry of Information and Broadcasting had issued blackout notices to various television channels on account of violation of the guidelines or programme code. There were even instances wherein the up-link and down-link licenses was not renewed. The present consultation paper is only considering how to control the news content creators in the organized sector. There are numerous unregistered news content creators, who are disseminating the news content through various news aggregator platforms, youtube, and social media properties. Many of these contents creators are disseminating news without even verifying the authenticity of the same. The persons in unorganized sectors and the unregulated news aggregators are left scott free .

3.2 If no, please provide an elaborate justification as to why there is no need for such a mechanism? Provide market data to substantiate your opinion.

Response

Various media verticals already have their own several self-regulatory mechanisms which is recognized by the government and courts of India: (1) For newspaper - Press Council of India; (2) For television channel – Indian Broadcasting and Digital Foundation, News Broadcasters and Digital Association, News Broadcasters Federation; (3) For Radio – Association of Radio Operators of India_: and (4) For Internet based news media – Internet And Mobile Association of India, Web Journalists Standards Authority, etc. With the vast power of the Ministry of Information and Broadcasting many a times, they have imposed blackout directions against broadcasters.

Q4. Please suggest the most suitable criteria to define and measure Ownership/Control along with suitable reasoning. Define Control and prescribe the statutory/ regulatory/ legal powers to enforce such criteria of Control.

Response

Ownership can be attained through equity holding. While Control can be exercised through inter-corporate deposits, loans, and advances, providing guarantees, brand licensing arrangements, common directors, etc. The Companies Act, 2013 and the various regulations promulgated by the TRAI can enforce control. Ind AS issued by MCA has also given various criteria which can be construed as effective control. As far as the print, television, radio, and the internet-based news media (i.e. extended arms of traditional news companies) are considered they are already well regulated. In our view, the news aggregator and big tech companies should be permitted to continue business only after obtaining a license from the regulatory authorities.

Q5. Should the licensor, based on recommendations of the concerned monitoring agency/ regulator, restrain any entity from entering the media sector in public interest? Please elaborate your answer.

Response

Yes, the licensor, based on the recommendation of the regulator should be empowered to disqualify any entity from entering the media sector in the public's interest, potential conflict of interest, and to avoid the possibility of potential abuse of the state machinery and regulatory bodies against independent media organizations.

Q6. Which of the following methods should be used for measuring market concentration?

(i). Concentration Ratios

(ii). Lerner's Index

(iii). Hirschman-Herfindahl Index (HHI)

(iv). Any other

Please comment on the suitability of HHI for measuring concentration in a media segment in a relevant market.

In case you support "Any other" method, please substantiate your view with a well-developed methodology for measuring concentration in a media segment in a relevant market.

Response

Measuring market concentration is uncalled for and the methods mentioned above have no applicability in the Indian context.

Measuring market concentration in any media segment is totally irrelevant and unnecessary as the peculiarity of the Indian media industry is such that there is no pan-India media company akin to the media chains or conglomerates of the West having a newspaper brand that while having one footprint over the country could also be called the "national paper". However, each city or State may have a newspaper of choice. We are furnishing the data of the Top ten Newspaper :

Name of the Newspaper	Language	July-December 2019
Dainik Bhaskar	Hindi	4187757
Dainik Jagran	Hindi	3379345
The Times of India	English	2415718
Malayala Manorama	Malayalam	2308612
Hindustan	Hindi	2210774
Amar Ujala	Hindi	2082073
Rajasthan Patrika	Hindi	1648391
Eenadu	Telugu	1614106
Daily Thanthi	Tamil	1472948
Daily Sakal	Marathi	1263953

The fragmentation of the newspaper space can only be understood when one sees that English/Hindi newspaper that enjoys substantial circulation in some States has after several decades failed to make an impact in terms of circulation in another State.

The fragmentation of the media industry can also be seen from the sheer number of media outlets which includes over 32,680 newspapers and periodicals, over 901 TV channels, and about 385 radio stations.

Q7. What all genres shall be considered for the purpose of overseeing of media ownership to ensure viewpoint plurality? Please elaborate your response with justifications.

Response

In our view, there is no threat whatsoever to viewpoint plurality and therefore no need to devise any way to ensure it. In fact, there should be no interference with the freedom of media as the same is unconstitutional under Article 19(1)(a) and 19(1)(g) of the Indian Constitution. Viewers should be allowed to ensure viewpoint plurality by choice.

India is in fact known for actually having too many ideas – with the government suspending the issuance of licenses for new TV channels for some time because it felt members were already too high. In fact, India today has more newspaper and TV news channels than any country globally. So concerns about a lack of pluralism of ideas are not warranted. In any case, globally and locally, the acts show that a plurality of ideas thrives, irrespective of cross media ownership. The media in Kerala is very vibrant and energetic, with no signs of dominance by any of the players.

As per data released by Registrar of Newspaper of India; during 2020-21, there are 1,44,520 newspapers and periodicals registered with the Registrar of Newspaper of India. in the State of Kerala of which 3,492 are registrations for newspapers and periodicals in the Malayalam language. As per records of the Registrar of Newspaper of India, there are approximately 435 Malayalam Newspapers and 3,057 Malayalam periodicals registered.

In addition, there are at least 37 registered Malayalam TV channels and __ Malayalam centric FM radio stations.

On perusal of the data provided herein it can be noticed that over the past few years the reach of Newspaper and television has come down :

Row Labels	July-December 2015	July-December 2016	July-December 2017	July-December 2018	July-December 2019
Dailies	55471145	53202054	50072656	45554234	44200953
Weeklies	7681720	7680380	8223129	7106474	6293095
Monthly	2796918	2536108	2190124	1852041	1327063
Fortnightly	1659201	809225	680794	540918	479418
Annual	175973	167877	31103	29757	19382
Grand Total	67784957	64395644	61197806	55083424	52319911

Total Television Ratings : Kerala					
Year	Months	Total TV Avg. Wkly GRPs	Avg. Rat%	Avg. Daily Reach%	Avg. ATS (Avg. Time Spent) HH:MM:SS per day
2018	Jan-Apr	3,842	11.4	72%	03:48:35
2019	Jan-Apr	3,633	10.8	71%	03:38:01
2020	Jan-Apr	4,082	12.2	72%	04:04:26
2021	Jan-Apr	3,582	10.7	68%	03:47:28
2022	Jan-Apr	3,258	10.0	66%	03:31:01
Source : BARC data					
2+ years, Kerala					
All Figures are Avg. Total Television Ratings					

Q8. Which media segment amongst the following would be relevant for encouraging viewpoint plurality?

1. Print media viz. Newspaper & magazine

2. Television

3. Radio

4. Online media/Digital media/OTT

5. All or some of the above

Please substantiate your answer with appropriate reasons.

Response

In view of our response to Q7 above, we reiterate that there is no need to devise any ways or means to ensure viewpoint plurality in the Indian market. Further all media platforms are independent and not substitute to each other. Newspapers, television, radio and online media are relevant for viewpoint plurality.

Q9. Should the word 'media' include television, print media, digital/online media, and other media entities? Alternatively, whether 'television' as a media segment should include only DPOs (including LCOs) or only Broadcasters or both for ensuring viewpoint plurality in the television segment? Please justify your answer.

Response

Considering a larger perspective media should only include content creators i.e., print, television, radio, internet media. DPO's (including LCO's) should be excluded from the criteria as the same is involved in the distribution of television channels.

Q10. What should be the basis of classification of relevant geographic markets for evaluating concentration in media ownership? Should it be aligned with state or a region/ Metro/ Non-metro cities or the whole country? Please support your answer with reasons.

Response

India is a diverse country with several languages and dialects being spoken across the length and breadth of the country. Any one language or dialect has little ability to influence the people across the consumption set. There are 22 different languages that have been recognized by the Constitution of India. The official language of the nation is Hindi and, English is continued to be used for official purposes. The largest radio operator in the country, All India Radio is broadcasting in 23 languages and 179 dialects.

In our opinion, there is no requirement of distinguishing relevant markets to determine the extent of cross media ownership in the country at all. The predominance of vernacular languages in our country and geographic and cultural diversity precludes any fear of monopoly. India, unlike USA, UK or Australia is not a land of one language and unlike other countries with Cross media ownership restrictions – there are 22 official languages with as many as 1500 dialects. Thus the same owner of a Tamil newspaper cannot in any way be seen to be influencing an English Channel viewer. There are 28 States and 8 Union Territories with distinct cultural identities and different languages particularly in South India and in some States in the North.

Regulators and adjudicating authorities in Western countries have already accepted the elimination of the blanket ban on cross media ownership. They have acknowledged the fact that the diversity of services and choice of content from different owners in the market keeps on increasing and as the consumer acquires increasing levels of control over what sources of news they use the need for specific ownership rules to guarantee a plurality of opinions diminishes.

Q11. Should the relevant geographic market be defined on linguistic criteria? If yes, please list the languages which may be included in this exercise, along with justifications.

Response

The official language of the nation is Hindi and English is continued to be used for official purposes. Apart from these languages, there are 21 different languages that have been recognized by the Constitution of India. In our view the relevant geographic market if defined on a linguistic criterion has to be that of a State in which the said language is spoken. However, many states have Hindi as their language. English is used across the country.

Q12. Should the relevant geographic market be defined uniformly for the whole country? Is there a need to adopt separate criteria for certain states and/or Union Territories in light of their peculiar circumstances such as difficult terrain, hilly region, huge distance from mainland, low media penetration etc.?

In case you support the need of a separate criteria for certain states and/or union territories, please specify such states and/or union territories and the criteria suitable for them along with appropriate justifications.

Response

The geography of India is extremely diverse, with landscape ranging from snowcapped mountain ranges, deserts, plains, hills, plateaus, etc. There are areas with low media penetration. Majority of the newspaper printing press' are situated in cities. In our view the relevant geographic market of India cannot be uniformly defined for the whole country.

Q13. Which of the following metrics should be used to measure the level of consumption of one type of media (media outlet) in a relevant market?

13.1 Volume of consumption

13.2 Reach

13.3 Revenue

13.4 Any other

Please elaborate your response with justifications.

In case you find "Any other" metric to be suitable for the said purpose, you are requested to support your view with a detailed methodology.

Response

Internationally the broad parameters such as volume of consumption, geographical coverage, target audience, equity participation, reach, revenue and number of channels have been used. The restrictions are generally based on the principle of ownership or control and have no relevance in the Indian context since the plurality which exist in India do not exist in any of the other international jurisdictions. Further no media house enjoys unlimited monopoly in India as TRAI's own report shows.

Based on these parameters it should be stated that it is impossible for cross media ownership influencing the opinions of consumers in India because of diversity in languages, geographic and the media, fragmented industry and fierce independence of the media industry. We further elaborate on these reasons :

(a) Multiple languages

Predominance of vernacular languages in our country preclude any fear of monopoly. India unlike USA, UK or Australia is not a land of one language and unlike other countries with Cross Media Ownership Restrictions – there are 22 official languages recognized by our Constitution with as many as 1500 dialects. Thus the owner of a Tamil Newspaper cannot in any way be seen to be influencing an English newspaper reader or Channel viewer.

(b) Diversity in the media

It is obvious that no Indian private TV channel network commands 20 per cent of the market, let alone 45 per cent prescribed in US/UK. Of the 200 plus top readership newspaper list in India, as per IRS 2019 Q4, India's largest English newspaper commands only 23% per cent of the national English readership which itself is a mere 5.56 million. This is only about 3.25% of the total readership in the country and only 0.50% of the total adult population (12+ years).

(c) Fragmented Industry

The peculiarity of the Indian media industry is such that there is no pan India media company akin to the media chain or conglomerate of the West having a newspaper brand which while having one footprint over the country could also be called the "national paper". However, each city or State may have a newspaper of choice. The fragmentation of the newspaper space can only be understood when one sees that English/Hindi newspapers which enjoy substantial circulation in some States have after several decades failed to make an impact in terms of circulation in another State. The fragmentation of the media industry can also be seen from the sheer number of media outlets which includes over 32,680 newspapers and periodicals, over 901 TV Channels and 385 FM radio stations.

About 60% of the households in India is having access to television sets.

(d) Fierce Independence

India's legacy of having a nationalistic media, strong cultural values and individuality of media houses eminently guards against the dominance of one company and its control. Indian media industry is highly fragmented with over 32,680 registered newspapers and periodicals, over 901 TV channels and at least 385 FM radio stations in the private sector. This is excluding the 23 Doordarshan TV channels and the 470 broadcasting centers of All India Radio which is accessible to 92% of the country's area and caters to the need of 99.19% of the total population.

In view of the above, there is no need to measure the level of consumption of the media outlets in a relevant market at all. The media sector in India has a healthy competition on account of its diversity and fierce independence. As we have pointed out time and again, media ownership regulations are absolutely uncalled for.

Q14. Whether circulation details of newspapers should be used as a proxy for readership to measure the reach of media outlet in print segment in a relevant market?

In case you disagree, kindly provide a detailed methodology to measure the level of consumption of print media segment.

Response:

There is already a readership survey conducted for ascertaining the readership of newspapers. Circulation alone cannot be used for determining the readership. Many political parties' own newspapers and people are forced to buy those. Those are forced selling and not read papers.

The methodology used presently by the Readership survey by statistical sampling is one of the best method for finding out the level of consumption of print media.

Q15. According to you, what measures should be adopted to discount the impact of bouquet system of channel distribution on the viewership of television channels? Please support your suggestion with reasoning.

Response

This issue comes under the purview of The Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulation, 2017 as amended from time to time. In our view it will be ideal to carry out a separate market study to understand the impact of the bouquet system of channel distribution on the viewership of television channels.

Q16. Would it be appropriate to put restrictions on cross media ownership in one or more type of media segment based on mere presence of an entity in any segment in a relevant market?

Response:

In our view restriction on cross media ownership does not have any purpose. Further there are no ways to restrict the use of digital media of large tech companies which is the bedrock for all fake news cannot be controlled with these regulations. In the digital century, algorithms implemented by news aggregators and various tech giants like Google, Facebook, etc control what a viewer should see or what a consumer should consume. There is lack of transparency in these algorithms. No rule or guideline is issued by the Government to bring transparency in these algorithms. If a person has searched and read a news article which was instigating or fake; then in all his subsequent searches similar unverified articles will come up on the 1st page itself.

Q17. In case you support the restriction based on mere presence in the relevant market, what all segments should be included for imposition of restrictions?

Further, in how many segments, presence of an entity should be allowed i.e. should it be "2 out of x" or "1 out of x ", x being the total number of segments?

Response

We reiterate that there is no need of devising any media ownership rules since the sheer plurality of media options in India plus the internet resources available foreclose all possibility of media monopolies in India.

With advent of platforms like Twitter, You Tube, Whatsapp for information dissemination, it is impossible for imposition of restriction or control of news. And if controls are bought to traditional media, those media companies will become more non relevant in the current context and out of business.

Application of a mathematical threshold whether in terms of presence in a segment or equity holding can be detrimental to the health of the industry.. The ownership in any media segment should not result as a bar to ownership in other segments.In India's unique "media scape", it is often contended that the proliferation of publications, radio stations, television channels, and internet websites is a sure fire guarantor for plurality, diversity, and consumer choice. Thereby, it is unreasonable to impose cross media restriction on the basis of cross media ownership of various companies in the media sector. There are more than 250 App's disseminating Malayalam news content listed in Google Play store and 37 Malayalam television channels telecasting Malayalam content.

Q18. Would it be suitable 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 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.

In case you support such restriction, please suggest the threshold level of market share for the purpose of imposing cross-media ownership restrictions.

Response

We reiterate that there is no need of devising any media ownership rules since the sheer plurality of media options in India plus the internet resources available foreclose all possibility of media monopolies in India. The only way there can be a monopolistic situation in India – at least theoretically – is where on media group exercise control over more than 50 percent of national and regional newspapers and has control over 50 percentage of regional TV channels with viewership of more than 50% of competition which is an improbable situation. In India's unique "media scape", it is often contended that the proliferation of publications, radio stations, television channels, and internet websites is a sure-fire guarantor for plurality, diversity, and consumer choice. Thereby, it is unreasonable to impose cross media restriction on the basis of cross media ownership of various companies in the media sector. The cross media ownership restriction would unbearably place burden on traditional media companies to grow. Beyond this no other benefits will be earned by cross media restrictions.

Q19. Whether in your opinion, the restrictions on cross media ownership should be imposed 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.

Response

Laying down restriction on cross media ownership is not justifiable at all. The medium of delivery of news, entertainment and data to individuals is rapidly transforming leading to convergence of all forms of media. In this era of convergence, newspaper, TV and radio stations are available on a mobile phone as well as the Internet. The ownership of mobile phone in India is over 1.2 billion mobile subscribers of which about 750 million are smartphone users – far, far, more than the circulation of newspapers or cable TV household or FM radio. Moreover, DTH and IPTV allow one to access FM radio as well as TV.

When the average Indian is accessing media across multiple formats (Radio, Television, Newspaper, Internet, etc) already, the media companies in order to survive and be productive are required to leverage existing investments, capacities and capabilities so that they could provide content in multiple formats. The Indian consumer today does not select his preference based on ownership of the Service Provider. The choice of the consumer today in the age of the internet is often involuntary and is (i) based on efficiency of the Service Provider; (ii) the quality of news coverage appealing to the taste, interests and aesthetic of the consumer, and (iii) the news provider's capacity to deliver high quality broadcasts/telecasts which are impartial. Further, big tech companies are pushing news article based on the search previously carried out by the users on their platform.

Besides any attempt on restricting cross media ownership is ultra vires of the Constitution as it violates Article 19(1)(a) and 19(1)(g) of the Constitution.

Cross media regulations are also violative of free trade and the right to the print media to prevent it from becoming obsolete. In this context, it should be pointed out that the print media industry is facing serious threat from the news media – T.V., Radio and Internet. In order for print media to survive, it may be required for it to diversify into other mediums to capitalize on the enormous synergy between print and various mediums in terms of news gathering and content presentation and save cost. In view of the above we suggest that no restriction be laid on cross media ownership based on HHI Index.

Q20. In case your response to the above question 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.

(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. Please provide your inputs on the suitability of imposing restrictions on cross media ownership only in highly concentrated relevant markets using Diversity Index Score as a tool to measure concentration.

In case you find the abovementioned criteria of restricting cross media ownership appropriate, 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.**

Q22. In case you consider any other criteria for devising cross media ownership rules to be more appropriate, please suggest the same with sufficient justifications.

Q23. Considering the fact that sectoral regulators have played important role in bringing necessary regulations to facilitate growth and competition and to promote efficiency in

operations of Telecom Services (Telecommunications and Broadcasting), in your opinion, should Merger & Acquisitions in media sector be subjected to sector specific regulations? Please justify your response.

<u>**Response**</u>

In our view no additional sector specific regulations should be put to Merger & Acquisitions in media sector. Merger & Acquisitions are regulated fully under the Competition Act, 2002. In India the Competition Act, 2002 has jurisdiction to curb all anti-competitive practice in the media sector. Countries like Netherlands, Sweden, and Poland have repealed or modified their cross media ownership rules, and have left the same to be regulated by general competition law. Therefore, cross ownership of media companies is now assessed under the Competition Law rules only in these countries.

Q23a. If yes, which among the following should be taken as the criteria for the same-

- **(i) minimum number of independent entities in the relevant market**
- **(ii) maximum Diversity Index Score**
- **(iii) any other measure**

Q23b. If no, what mechanism would you suggest for regulator to use for ensuring smooth and equitable growth of the sector?

Q24. In your opinion, should any entity be allowed to have an interest in both broadcasting and distribution companies/entities?

Q24a. If "Yes", how would the issues of vertical integration be addressed?

<u>**Response**</u>

Yes. The Government should allow vertical integration while putting in place rules that ensure that there is fair play by such vertically integrated media group and third parties are not treated unfairly or disadvantaged with muscle. Any entity should be entitled to have interest in both broadcasting and distribution companies/entities. However, the entity with broadcasting and distribution facilities would allow all broadcasting entities on the distribution platform. There should not be any favoritism towards broadcasting entity/channel owned by parent entity. All transactions of vertically integrated media group should be at arm's length.

Q24b. If "No", whether a ceiling of 20% equity holding 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?

Q25. Please suggest any other measures to determine "Control" and the limits thereof between the broadcasting and distribution entities.

Q26. Do you think that the disclosures/ compliance reports for different type of licensees as described in Part II of Chapter VI are sufficient to ascertain the media Ownership/ Control by certain entity(ies)? If no, please specify, what additional details should be sought by the licensor or the regulator for effective monitoring.

Response

The current regulators, viz, Ministry of Information and Broadcasting, Registrar of Newspaper s, the Registrar of Companies and the Competition Commission of India have adequate information and powers for mandatory disclosures. Any further mandatory disclosure contemplated would restrict the right to trade and profession provided by the Constitution and would be violative of the freedom of expression of the media. For instance, stated above restriction on cross media ownership are undemocratic, unconstitutional and uncalled for.

Q27. What additional parameters, other than those listed in this consultation paper, could be relevant with respect to mandatory disclosures for effective monitoring and compliance of media ownership rules? Further, what should be the periodicity of such disclosures? Please justify your answer.

Response

The current regulators, viz Ministry of Information and Broadcasting, the Registrar of Companies, and the Competition Commission of India have adequate information and powers for mandatory disclosures. Any further mandatory disclosures contemplated would restrict the rights to trade and profession provided by the Constitution and would be violative of the freedom of expression of the media. For reasons stated above restrictions on cross media ownership are undemocratic, unconstitutional and uncalled for

Q28. Stakeholders may also provide their comments on any other issue relevant to the present consultation.

Response

In this digital age, the prominence of traditional news media formats like newspapers and television influencing the opinion of the masses has long-gone. Earlier a consumer used to decide which paper or channel needs to be subscribed to.

With the advent of digital platforms, the consumption, distribution and production of news has been altered fundamentally. Now news through the internet is getting disseminated by various digital aggregators/big tech companies.

Big tech companies today have emerged as the de facto regulators, deciding on what content a viewer should see or what a consumer consumes. Algorithms of these news aggregators and various tech giants like Google, Facebook, etc systematically control the viewing pattern of the end user. There is lack of transparency in these algorithms. In the present situation, it is such big tech companies that influence the opinion of the masses. Post covid 19 pandemic, the overall percentage of people consuming news through social media has drastically increased.

Though in the consultation paper a passing remark is made, issues pertaining to the abuse of power by these big tech companies were not raised in this document. The operations of these big tech companies are entirely unregulated. Many a time these companies are incorporated in overseas nations and operate outside the purview of Indian law enforcement agencies. Their owners' details are never disclosed. In the practical sense, the government is not having any control over the news aggregators / big tech companies who are influencing the opinions of the general masses.

These digital aggregators have become favorites of the internet savvy consumers. News is a big source of traffic for all internet behemoths namely Google, Facebook, etc. Around 40% of the trending queries on Google are news-related. These unregulated big tech companies'/service providers are favorites of the younger generation consumers. Potential control is exercised by these companies in the market and the abuse practiced by them needs to be addressed.

- One such abusive practice by the big tech companies' is the usage of the short summaries or extracts of text from a News article that accompanies the link to a news story and are displayed when a consumer searches for a news story. Producing and gathering credible news takes a lot of time, effort and money. Traditional news media houses/publishers, to gather credible news, invests heavily in employing journalists and reporters and in training them.
- Dissemination of fake news through the social media platforms and digital aggregator platforms is yet another social risk caused to the society at large by the big tech companies. Dissemination of news in India earlier was a controlled activity with proper license to be taken from the concerned government authorities. At this juncture we would like to point out that private FM radio stations are not permitted to broadcast their own news bulletins. However, now Social media platforms and digital aggregator platforms permit unregistered content creators to stream news bulletins created by them without any restrictions. These unverified news bulletins streamed by unregistered content creators are spreading hate in the society at large and have become a menace to the Nation. On several occasions communal violence had occurred due to the propagation of fake news through Social media / digital aggregator platforms. Many times it is noticed that Social media / digital aggregator platforms are propagating news prepared by unregistered content creators more than the news bulletins of the registered traditional news publishers. Though, the menace created by these unregistered content creators is well known to the big tech companies they conveniently keep silent and wait until law enforcement authorities or regulatory bodies knock on their doors multiple times.

While the above situation was in existence in other parts of the World, Australia took the lead in passing the News Media and Digital Platform Bargain Code whereby digital platforms have to pay to the content owner a fair price for taking or using their content. Similar legislation is proposed to be passed by other countries also. The European Union is amending the Copyright Act, whereby a content creator needs to be paid his due for the content used. Canada has also laid down details of the proposed legislation (Online News Act) in line with the Australian Code. Further, European Union is proposing to bring in transparency measures for online platforms on a variety of issues, including on the algorithms used for recommending content or products to users.

For a healthy society, like the serving of safe and wholesome food is required for human consumption. Similarly, for the wellbeing of a society the news that is getting consumed by its citizens should also be the verified version and not fake news. Hence in the present scenario, a regulatory framework should be put into place for regulating the abusive practices of the big tech companies.