

To,
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**SUBJECT: TRAI Consultation Paper on Issues relating to Media Ownership
dated February 15, 2013**

We at VOICE as part of our advocacy initiative in Telecommunications & Broadcasting continuously raise different issues with Policy makers impacting consumers based on the knowledge through Consumer feedbacks.

As registered CAG with TRAI we are in forefront of providing inputs to TRAI related to consumer concerns and interests.

In continuation of this effort on behalf of Broadcasting consumers we at VOICE have following response to the questions posed in the consultation paper:

VOICE comments are as under:-

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.

A1: Yes large business houses which can be identified by their turnover/market capitalization. Specially those business entities who have interest in financial services like banks, insurance etc.

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.

A2: Yes but the criteria should be pre-defined with enough checks to ensure fair play for all concerned.

Media Ownership/ Control

VOICE/HU

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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?

A3: Equity holding limit should be 10%. A distributed control is preferable. Secondly in a Public Limited company with a well diversified share holding by public even 20% may become a largest single) controlling interest.

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.

A4: As per A3.

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.

A5: All genres should be considered with an added emphasis on news and current affairs as viewpoint plurality is required even for entertainment channels, which otherwise may get distorted in favor of a dominant or owner's viewpoint/regions/state/religion/caste etc.

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

A6: All of the above with least emphasis on Online media.

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?

A7: No distinction as viewpoint plurality is desired all across.

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**

Q9: Volume of consumption & Reach as that will determine influence and popularity. All other parameters will depend on business model adopted.

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**

A11: No comment.

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.

A15 to A27: Impractical to control.

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.

A26: Yes market dominance should be the criteria so it should ensure minimum number of independent entities remaining.

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.

A28: Absolutely no vertical integration be allowed. It should be arms-length approach between broadcasting and distribution. So zero cross holding or even co-operation be allowed.

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?

A29: All parameters which can help arrive at advertisement rates vs. TRP/reach/ popularity to determine that fair advertisement revenues are accruing to the entity based only on its popularity and no other considerations are influencing its advertisement rates.

Q30: What should be the periodicity of such disclosures?

A30: Quarterly.

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

A31: Yes.

Other Issues

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

- 1. Ownership of News and Current affair channels should be clubbed with Printed Newspapers so there should be individuals identified as Publisher and Editor for News and Current affair channels who**

can be held responsible for behavior and content of the News channel as per recent Supreme Court judgment [*Gambhirsinh R. Dekare v. Falgunbhai Chimanbhai Patel & Anr.*(Criminal Appeal No. 433/2013)].

2. No business house should have more than 10% interest directly or indirectly in a media company.
3. No entity can have licenses for more than 2 mediums (print, broadcasting, radio, internet based media).
4. Dominance shall be controlled while issuing licenses as well as at the time of M & A.
5. Print Newspapers as well as News and Current affair channels should not use the same trade name for other business activities which will influence/confuse the general public like Times group or Anad Bazar Patrika (ABP) etc.
6. There should be mechanism devised to find out the advertisement rates received by different channels on a quarterly basis to ascertain whether these rates are line / correlation with the popularity of that channel.

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