

Emerging challenges of regulating cross media ownership in India

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Abstract

This paper discusses the play of media in a democratic and pluralistic state of India gaining muscle and flexing it into different cross sections of the said industry by monopoly players and media house giants. Social responsibility has been a matter of disregard within the scope of Indian media recently. Business practices hazardous to the very nature of responsible media have emerged and this paper contemplates cross-media ownership that has threatened thriving of pluralistic viewpoints. Post 1991 global interests represented by transnational media houses swayed the interests of Indian media from marshalling social change by developmental programs for the ostracized sections of the society. Though media plays as the watchdog of the government, it is in this same capacity that regulation of media also need be focused at for retaining the sanctity of media functions and assuring reliability, accountability and authenticity of media consumables. This paper also analyses into horizontal sections of news media, social media and paid news issues and finally considers rights enjoyed by media and the structure of investments in media by foreign entities

KEYWORDS- Cross Media, Regulation, Ownership, Democracy

India is a democracy and one of the most important features of a democracy is the media. A democracy can sustain and run to its full potential role only when it can keep its citizens well informed and ensure that they participate and debate. The most important constituent for any democracy is the media. Mass media has been continuously impacting human beings. They have been a source of information and entertainment across the globe. The television media replaced print media as the important source for information. This has been replaced by internet that gives real time information to people.

The theory of social responsibility is backed by certain principles that the media that should be follow: Media has certain responsibilities towards the societies, the news should be relevant, truthful, objective and fair; there is a need for self-regulation and freedom of speech; media should stick to a professional code of conduct and when the public interest gets hampered the government may have a role to intervene. The public interest need to be taken into consideration according to the normative view of press. Some of the most important conditions that need to be considered according to the normative view of press are “*freedom of publication, plurality in media ownership, diversity in information, culture and opinion, support for the democratic political system, support for public order and security of the state, universal reach, quality of information*”

and culture disseminated to the public, respect for human rights and avoiding harm to individuals and the society”

With the emergence of monopolistic and oligopolistic tendencies in the content generation and transmission, vertical and horizontal integration and absence of regulation plurality of opinion, which is the bedrock of democracy is being threatened and thus emerges a need for a regulatory framework for the same.

Cross media ownership in India

Indian media today, has some incidence of concentration and consolidation in the said industry. The ownership of multiple media entities or businesses by any entity is defined as *cross-media* ownership. These include platforms like radio, television, print and online modes. Whenever someone is involved in owning more than two of these businesses, it is considered cross-media ownership. The most commonly used measure for control or ownership is *equity holding*. A measure that can be *quantified*. In addition to this, it can also be *controlled*. Media businesses can be classified as *content*, *distribution* and *carrier* businesses. Content refers to software, news content and other programmes for various mediums. Carriers are internet, newspapers, film, radio, mobile, television and magazines. Distribution refers to the services that are used to deliver the content including internet service providers, cable networks and the direct to home service providers.

Over the last decade there has been an increased commercialisation that has been observed because of the growth of media within the country and the also the entry of the multi-national media houses. There has been an emergence of the interlocking of dictatorship between media companies as well as inter-corporate investments. The availability of limited information on the revenue trends and the media groups creates a hurdle for getting a handle on the emerging media monopolies.

The accumulation of ownership in the news can be categorised into three heads:

- Cross-media ownership across the various carriers such as TV, radio or print
- The dominance of market in a geography within a segment of media.
- Vertical integration of the distribution, carrier and content

Extent of cross media ownership in India

The extent of cross media ownership in India can be understood by looking at the length and breadth of ownership in the country by media houses. A.B.P. Pvt. Ltd. publishes a host of newspapers, among them being Ananda Bazar Patrika; a Bengali daily group which has 14 newspapers. In addition to this, it also presence in radio, TV news, internet and TV-entertainment. Bennet, Coleman & Co. Ltd.; called the Times of India Group owns 15 newspapers including its most popular *Times of India*. In addition to this it has Times Now, Radio Mirchi, Ananda and M3 channels along with internet websites India Times and Times of Money.

In over six states there is a single media house which has a growing dominance. These are the media houses which are emerging as conglomerates across the nation, with their presence in media distribution, network business and entertainment. They have ownership in magazines, television channels, cable TV, newspapers and radio. In addition to this another trend that has emerged is that the media companies both abroad and in the country, are trying vertical integration to sell cross-media by building or acquiring multimedia platforms.

Sun Network has about 14 TV channels in five south Indian states, radio stations, cable assets, four magazines and two newspapers. There is a clear dominance of Sun TV's DTH market and satellite TV in Tamil Nadu. Cable distribution companies are owned by Sun TV network and Star TV India. Sun TV's DTH is also known to block out political telecasts of its rival TV channel, Jaya TV.

"Star's cross-media India operations include television channels, Internet offerings, radio, mobile entertainment and home video (incidentally, 11 cable distribution companies provide some 400 television channels in India)."

Motivations for regulation of cross media ownership in India

The media markets for achieving economies of scale tend to move from competitive form of organization to monopoly or oligopoly. This is an issue of concern as the efficiency outcomes that are obtained leads to smaller number of competitors and thus in turn create monopolies and lead to inefficient abuse of power. Concentration in media markets, profoundly influence opinion and ideas in addition to the economic effects usually that comes out.

Media in our country or in any democracy places an important role. It acts as a platform for formation of public perception as this helps the public debate on issues which are important and thus influence and swing opinions. It thus becomes important to preserve integrity and keep it at a safe distance from the influence of various organs of governance and political institutions that can impact public opinion. Studies suggest that concentration of media ownership in hands of a few can negatively impact diversity. The economic returns to the owners shape their programming choices, providing access to information and advertising

The owners of media house scan influence the content this can be done directly but also do it indirectly by influencing the appointments and thus influencing the editors by using sticks here the loss of employment would act like an effective stick to regulate and manage the content. *"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."*

In addition to this the owner's approach for profit making can also influence the news broadcasting and gathering. The broadcasted news can be affected by retrenchment, targeted investment and cost-cutting measures.

Media ownership thus remains a topic of debate across the globe. There is certain amount of regulation of the ownership because of its stature in a democracy. It provides a range of opinions and voices that influences opinion, supports political debate and informs the public. Regulation for ensuring plurality of ownership in media is important for ensuring diversity of news as it is perceived widely the concentration of media outlets in the hands of a few can impact the diversity of viewpoints.

UNDERSTANDING REGULATION AND NEWS MEDIA OWNERSHIP-A CONCEPTUAL FRAMEWORK

Media regulation is unique in the sense that the regulator must balance the twin objectives of public interest and private profits. With this in mind, this paper proposes a framework to assess the media regulatory landscape in a given country.

The framework contains two normative claims. First, the state takes positive measures to ensure plurality and vibrancy in media markets. Second, the state ensures these positive measures are adhered to by private participants, in other words, ensuring compliance. Within these two principles the regulator has a range of regulatory options to pursue. And depending on the scale and scope of regulations and compliance, we see four types of media environment that can develop.

Regulatory Options & Measures

The regulatory options are two fold- positive and compliance measures. Positive measures are those that include laws, regulations, rules and licensing etc. Compliance measure include those actions that implement the positive measure like- using laws to crackdown on violations, penalties, sanctions, and advocacy efforts.

- *Positive Measures:* These include disclosure norms, licensing process, regulation on ownership, laws specific to broadcast media, and compliance with international norms and standards.
- *Compliance Measures:* These are measures such as the regulators use of anti-monopoly laws to pursue violations, sanctions and censures like ensuring divestments against dominant firms (who abuse their market power), encouraging civil society to participate in regulatory regime and encouraging the participation of non-commercial operators in the news media.

What is the importance of these measures?

These measures serve as a useful indicator to assess a given country's media regulations landscape. It provides a sense of willingness of the State to both act and ensure effectiveness of its policy. The positive measures provide indicators to gauge the willingness of the State to act. While the compliance measures provide a useful set of indicators to gauge the effectiveness with which the State has acted.

Types of Media Regulatory Environment

Depending on the combinations of positive and compliance measures we have evolved a set of media regulatory environments. These are of four types: Regulation without vibrant

media, low regulation and weak media, low regulation with vibrant media and the ideal media regulatory environment.

- *Regulation without Vibrant Media*: These are media regulatory environments where there are significant regulations on cross media ownership. But, both compliance and involvement by civil society is negligible. Typically, in these regimes the regulator has superior capacity to regulate but civil society is gagged or excluded from participation. These regimes may also have strong state-led media businesses which act as the dominant player in the market.
- *Low Regulation and Weak Media (Regulatory Capture)*: These are media environments that have low level of regulations and also weak media. The capacity of the regulator is marginal and the media market is dominated by a few players. Typically, this environment exhibits the phenomenon of regulatory capture where the dominant media house/players have over-weening influence on the regulator and the state. This may manifest itself as a skewed information market where dominant business houses employ media to meet their narrow ends.
- *Low Regulation with Vibrant Media*: In these media environments, there is plurality in media organisations but, the regulator's capacity to regulate is low. The laws and regulations in such environment is not equipped enough to deal with cross media ownership issues. Also, the participation of the civil society is typically strong in these environments. Democracies typically possess this media environment. The low level of the state's willingness to act may be explained by the high level of influence a particular coalition of media wields over the state.

FOREIGN DIRECT INVESTMENT IN INDIAN MEDIA

Indian media has seen a rather linear trajectory of ownership trail since independence owing to the then Prime Minister Jawaharlal Nehru's agenda to keep media out of reach of foreign interests to protect the domestic viewership from foreign propagandas. Given that media comes next after the defence services, security and space projects amongst national priorities; hence, foreign direct investment (FDI) and ownership in media directly consumed by the citizens has been a contentious issue especially after the liberalisation of the economy both politically and economically.

FDI saw an upswing following the millennial development and further retained the momentum during the financial crisis of 2008-09 and 2009-10. This is in principle a move by the State with a consensus from amongst the political community to comply with the pressures from the media giants starved of funds amongst growing international pressures and pitch India as a favourable destination for investment and thus showcase the priority economic development takes in India to invite capital.

The government (GOI) has recently further liberalised the FDI caps in key sectors including Direct-To-Home (DTH), print media and radio and entry restrictions for foreign companies have been relaxed for most segments of the M&E industry.

In recent years, with near double-digit annual growth and a fast-growing middle class, there has been a renewed surge in investments into the country by multinational companies. .”

Following the trend, the GoI has been mulling to take a step forward and increase the print media cap to 49%, it will potentially bring the much hitherto safeguarded print media sector at par with the electronic media.

Conclusion

The Indian news media environment is exhibiting exceptional growth rates in the last two decades. This has been due to various factors. Increasing literacy has been driving the growth of newspapers. The entry of private sector in the news broadcasting business has added dynamism to the market. The increasing coverage of internet and internet based platforms are redefining news-cycles of traditional news organizations. There is certainly no doubt that many of these trends have positive effects. But, the challenges associated with managing such explosive growth ought to be tackled. Cross-media ownership is one such salient issue in the Indian context.

We find that there is increasing tendency of ownership concentration and a move away from a plural market in the Indian news media environment. The overall Indian media regulation ecosystem does not seem to have the capacity or the inclination to respond to this challenge. Ideally, there are two components of regulation in news media a) willingness of the state to take positive actions and b) ensuring compliance by the regulated entity. We find that the Indian ecosystem partially fails in the first measure and succeeds partially in the second measure. There is an urgent need to relook at regulations on cross media ownership not just in the traditional news broadcasting/print verticals but also in the fast emerging social media space as well.

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