

April 4, 2013

Mr. Wasi Ahmad  
Advisor (B&CS)  
Telecom Regulatory Authority of India  
Mahanagar Doorsanchar Bhawan  
Jawahar Lal Nehru Marg  
**New Delhi - 110 002.**

Dear Sir,

We are enclosing our reply to the Consultation Paper on "Issues relating to Media Ownership", circulated by TRAI on 15<sup>th</sup> February, 2013.

Regards,

Yours sincerely,  
For The Malayala Manorama Co. Ltd.



George Verghese  
Secretary & Chief General Manager,  
Company Affairs

## 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.

#### **Response of Malayala Manorama:**

*In our opinion, the recommendations made by TRAI with respect to disqualification of political parties, religious bodies, Government or government aided bodies from entry into media sector are rightly founded. Further, all long-arm companies and investment vehicles of politicians, political parties and individuals who are in any manner affiliated to regulatory authorities like TRAI, CCI should also be disqualified from entry into the media sector.*

*This view however is not based on the principle of cross media regulations. This is on the principle of potential conflict of interest and in view of the possibility of potential abuse of the state machinery and regulatory bodies against competing media organizations. It would be against the interest of the broadcasting sector, and the interest of the public at large to permit the State, instrumentality of State, political parties or the holder of any constitutional post, elected posts or persons holding an office-of-profit, i.e., a post under central\state government which gives its occupant the opportunity to gain a financial advantage or benefit, to enter into broadcasting, distribution and media sector.*

**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.



(2)

**Response of Malayala Manorama:**

*Yes, the licensor, either suo motu or based on the recommendations of the regulator, should be empowered to disqualify any entity from entering the media sector in public interest, potential conflict of interest and to avoid possibility of potential abuse of the state machinery and regulatory bodies against independent media organizations. We reiterate that this view is however not based on the principle of cross media regulations.*

*Today, the ownership of mobile phones in India is over 400 million –far, far, more than the circulation of newspapers (30 million) or cable TV (71 million households) or FM radio. The power of cellular operators and last mile distributors of content are far more pernicious and violative of viewpoint plurality than the existing media houses.*

Media Ownership/ Control

**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?**

**Response of Malayala Manorama:**

*It is submitted that capping restriction of equity in any quantum is not justifiable to ensure competitiveness of the media industry. India already has a vertical integration rule in TV where broadcasters cannot own more than 20% of cable/carriage (or the last mile pipe), and vice versa. But despite this, cable and DTH companies that also own TV channels often give their channels favorable treatment - prime channel positions or more payment compared to similar competitors. This is why often, the only TV channels that are significantly profitable, are also those who own distribution whereby they can alter competition in their favor - while globally, cable companies like Time Warner are legally restricted from lending favoritism to its own channels.*

(3)

*Hence, per se restricting equity ownership would not lead to a competitive media industry. There should be provisions to prevent possibility of monopolistic tendencies in the case of news and current affairs flows in the country, newspapers enterprises should not be deprived of operating within the territory and in other than news and current affair programme even if they have a circulation of more than 50 percent. It is to be noted that in many jurisdictions, content owners and media houses are suffering huge losses, more often than not being at the mercy of a few "last mile owners" who are in fact far more powerful than the media houses. In this context, capping of equity ownership would not achieve the objectives it may be intended to achieve. It is more important to ensure that the market should be free and unfettered and "last mile owners" do not subvert fair competition and plurality.*

**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.**

**Response of Malayala Manorama:**

*In our opinion it is not feasible to measure the ownership/ control of an entity over a media outlet at all. Instead of capping of equity ownership of entities over a media outlet, it is necessary to have safeguards to ensure last mile neutrality as it is the distributors who can make it easier or harder for the public to get access to the information source or the media outlet of their choice. It is last mile ownership which has throttled the plurality of media and effective dissemination of information.*



(4)

*The potential of cross media ownership restrictions among content providers in the 21<sup>st</sup> century, represents an unnecessary and counterproductive regression of the laws, to an era when consumers had far fewer choices for news and information than they have today. Today there are over 400 million mobile connections in this country. In an era of mobile communication and internet, the rationale that "if one Media Group owns various media assets then it would consequently capture the mind of the individual comprehensively across all formats" is misconceived and irrational. Therefore, the Government should refrain from imposing any sort of media restrictions which would effectively cap the companies having cross media holdings to such a low extent that it would eventually destroy various existing business models, apart from the same being unconstitutional.*

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.**

**Response of Malayala Manorama:**

*In our view, there is no threat whatsoever to 'viewpoint plurality' on account of cross-media ownership 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 recently suspending the issuance of licenses for new TV channels for some time because it felt numbers were already too high. In fact, India today has more newspapers and TV news channels than any country globally, and if anything, economics will force a contraction of media outlets. So concerns about a lack of pluralism of ideas are not warranted. In any case, globally and locally, the facts show that a plurality of ideas thrive, irrespective of cross-media ownership.*

