MOTION PICTURE DIST. ASSOCIATION
(India) Private Limited

Via: Courier/ Email

March 8, 2013

To:
Mr. Wasi Ahmad,
Advisor (B & CS)
Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhawan
Jawahar Lal Nehru Marg
New Delhi – 110002

Re: MPDA views on Consultation paper No. 01/201- Consultation Paper on Issues relating to Media Ownership dated 15th February 2012

Dear Sir,

This instant submission is being made by the **Motion Picture Dist. Association (India) Pvt. Ltd,** (herein after the "MPDA") 215 Atrium, A Wing, 206, Chakala, Andheri - Kurla Road, Andheri (East), Mumbai - 400059, Maharashtra. We are a trade association representing the interests of six international producers and distributors of films, television programs, home videos, and digital representations of moving images and sounds. The members of MPDA (India) comprise of Paramount Pictures Corporation, Sony Pictures Entertainment Inc., Twentieth Century Fox International Corporation, NBC- Universal, Walt Disney Studios Motion Pictures and Warner Bros. Pictures International.

The Telecom Regulatory Authority of India (hereinafter ***"the Authority"***) Consultation paper on "Issues relating to Media Ownership" (hereinafter ***"the Consultation paper of 2013"***) published on 15th February 2013 calls for written comments on the consultation paper from stakeholders by 8th March 2013 and counter comments, if any, by 15th March 2013.

A brief background to the Consultation Paper of 2013 is attached to this submission and is marked as *Annexure-A.*

II. Response to the 2013 consultation paper:

A. Response Timeline set by TRAI curtails meaningful responses

The Authority had initially examined Media Ownership issues about 5 years ago. The 2008 recommendations published by the Authority *inter-alia* called for a study of the Media market in India. This study conducted by the Administrative Staff College of India ("***ASCI***"), known as the "ASCI Study" was published as long ago as nearly four years ago (in 2009). Since the past four years there has been no revisit of the Study of the media market in India to understand how the market has developed since 2009.

The Consultation paper of 2013 published by the Authority has invited submissions by March 8th 2013. The time line provided by the Authority of a mere 20 days from date of publication for stakeholders to respond to the Consultation paper of 2013 is clearly not enough given that the Consultation paper seeks stakeholder responses on a variety of highly complex and technical issues ranging from the appropriate methods of calculating market concentration and importantly the basis for opposition, if any, of market concentration assessment methodologies enumerated in the Consultation Paper. The paper seeks views additionally on regulations subsisting in multiple territories. Clearly assessing these regulations would take time. The time line provided by the Authority for submissions in this matter actually would consequently ensure at best only "general responses" and sadly a lack of considered insights and comments based on considered assessment of the issues raised in the paper by stakeholders to the issue. There is thus, as a result, a danger of the entire exercise being rendered as cosmetic in nature.

Admittedly, the Consultation paper of 2013 seeks stakeholder responses on a variety of highly complex and technical issues ranging from the appropriate method of calculating market concentration and importantly the basis for opposition of identified methodologies.

The Consultation Paper of 2013 raises several important questions critical to the long-term viability of stakeholders including members of the Motion Picture Dist. Association (India) [hereinafter referred to as "MPDA (India)"]. Consequently, stakeholders should logically have enough time to secure expert advice so that the Authority benefits from such inputs. MPDA (India) is committed to robust policy development based on a wide array of stakeholder views enabling the Authority to ensure that the development of Policy is mindful of ground realties and trends. In our view this would enable a true balancing of public interest and sustenance of an investment friendly regulatory climate.

Consequently, regressive ownership restrictions being encouraged in the absence of a comprehensive understanding of market conditions and market data, would potentially adversely impact the media sector and would not in reality achieve what is referred to as "viewpoint plurality". Further, regressive over regulation as also duplication of effort in the media sector in India, given its already fragmented and fragile nature, multiple languages, convergence trends extending in reach every day, which in themselves work effectively to prevent the dilution of the existing viewpoint plurality inherent in the Indian media market would effectively stand negated.

The instant submission also provides the following:

a. detailed comparative exposition of several international jurisdictions in relation to (i). disqualifications (ii). Restriction in relation to ownership in media sector and (iii) restrictions in relation to cross media ownership;
b. summarized indicator of the above mentioned data.

Given the paucity in time allotted to respond we have been unable to comprehensively detail the relevant laws. The above-mentioned charts are annexed to this submission as <u>Annexure- B & C</u> respectively.

B. <u>The proposed media control regulation alternatives all mean over-regulation and duplicating control mechanisms</u>

It appears that the Authority has not considered whether incorporating new ownership/control restrictions as well as media ownership rules on the media space ***in addition*** to existing regulations, would actually amount to duplicating regulations importantly and how the existing regulations would work along with any proposed restrictions/controls sought to be applied in the media space. The 'over-regulation' of the media sector primarily the Broadcast/Distribution, Radio, new media would in our view serve to adversely restrict.

Existing Restrictions:

The existing regulatory framework in any case, impacts and restricts as is observed by the Authority itself, the ability of the television broadcasting & distribution, radio broadcasting and newsprint sector from exercising a shade of dominance which would impact "viewpoint plurality". The existing rules include:

a. Restrictions regulating foreign investment in different media sectors;
b. Restrictions regulating cross-equity holdings in broadcast and distribution companies;
c. Restrictions on FM Radio entities including limiting licenses held in designated license areas etc;
d. Restrictions in DTH Service licenses;
e. Restrictions in relation to HITS service licenses;
f. The effect of the Competition Act in ensuring competition, restricting abuse of dominant position and regulating combinations emerging by way of mergers and acquisitions/amalgamations.

The Authority has itself recognised the above-mentioned rules as undeniably playing a role in ensuring competition and dominance in the media space and in our view, ensuring viewpoint plurality in India.

It is also a matter of concern that it appears that the Authority has not considered the fields held by existing regulations and the impact of such regulations on the media space, should any additional rules/regulations proposed to be adopted as may be recommended by the Authority. It is urged that the impact and role of existing restrictions and regulations and their contribution towards preserving viewpoint plurality is significant and consequently it is urged that the very premise that additional restrictions/rules are required is flawed.

The Competition Act:

The Competition Act, 2002 (as amended) ["the Act"] restricts:

(a) Anti-Competitive agreement
(b) Abuse of dominant position
(c) Combination in relation to mergers and acquisitions/amalgamations

The Competition Act includes within its encompass, the media sector, irrespective of medium or language. In our view, where concentration, dominance, abuse of dominance, anti-competitive agreements and creation of combinations which are potentially abusive from the perspective of the Act are already dealt and effectively addressed. Thererefore, the addition of duplicate regulations, effectively overlapping the mandate and basis of the Competition Commission is suspect and prone to creating confusion, friction between regulators, all potentially adversely impacting the growing media space in India. Add to this mix the current set of regulations and restrictions impacting how media entities work in India and you have a restrictive landscape allowing no room for media entities to navigate through. The tendency to over regulate in India must be curbed and efforts must be addressed towards firstly applying/enforcing existing regulations.

The Act would effectively prohibit anti-competitive agreements having an appreciable adverse effect on competition including agreements which seek to determine purchase or sale price, limit or control the production supply or markets, investments, the provision of services, collusive bidding time arrangements, refusals to deal with resale price maintenance and exclusive distribution and supply agreements. The Act as also effectively prevents enterprises from abusing dominant position whereby such enterprises impose unfair or discriminatory conditions in purchase or sale of goods or services and the prices in the purchase of goods or services. Enterprises that indulge in practices resulting in the à la market access or utilise dominant position in one relevant market in order to enter into protect other relevant markets would also be susceptible to restriction/legal consequences arising/applied by the Competition Commission under the Act. In fact the Competition Act also effectively regulates combinations in cases of mergers and acquisitions/amalgamation, which would and do as has been seen in recent cases relating to the acquisition of control over an enterprise in the media space.

C. Fragmenting an already fragmented Indian Media Market:

The Indian market clearly cannot be seated as a single media market given the following:

a. Multiple Languages: unlike other countries whose markets are unified by language, the Indian media market continues to be highly fragmented on the basis of language and regional cultures. With 15 official languages and thousands of dialects clearly, the influence of a regional language cannot be extended to other languages;

b. Fragmented Radio Market: even subsequent to the privatisation of FM radio, forecasts of consolidation in the private FM radio industry have not materialised as the private FM radio industry continues to be highly fragmented across Indian cities multiple Indian entities. Coupled with restrictions denying to private FM entities the ability to broadcast news or current affairs, restrictions on ownership of licenses in a license area, the possibility of concentration in the highly fragmented radio market is debatable;

c. Fragmented Television Market: there is an admitted lack of concentration in the television space in the hands of any single entity/group of entities by virtue of restrictions in terms of equity holding between broadcasting and distribution companies, restrictions on FDI etc.

The rush to adopt and incorporate media ownership control / ownership mechanisms which may subsist in other countries is fraught with risk given the very different nature of markets abroad from India. The consultation paper appears to "cherry pick" regulations from different jurisdictions. For instance regulations relating to media ownership/ control were often predicated on preserving local viewpoint plurality as opposed to the perceived adverse effect of national media entities on such viewpoint plurality. In the Indian context given that the television space does not operate on a local city level including by way for instance of cable news agencies/stations applying such a view or regulations/restrictions originally intending to preserve such plurality being applied in India will be inapposite and likely lead to unintended adverse consequences.

D. The ASCI 2009 Study:

In its 2009 paper, the Authority called for a study to analyse the Indian media market and assess evidence on consolidation and concentration in the Indian media space. The Administrative Staff College of India (ASCI) was 'awarded' a reference to conduct a study to:

- assess the nature of consolidation and concentration across the media space in India,
- assess the need for cross media and ownership restrictions in India
- assess whether broadcasting and cable companies should be allowed vice versa equity holding and the modalities if this were to be allowed

- whether the competition act was adequate to address 'the concerns', and the role of the two regulators media control and ownership regulations were to be allowed
- comparative analysis of at least 10 jurisdictions and media ownership control laws in such jurisdictions

It appears that the ASCI study titled "Study on Cross Media Ownership in India" (hereinafter the "ASCI study") has remained a draft report with no final report being made available. Significantly, the report/study was conducted in 2009 and since then, i.e. four years later there has been no further study. The ASCI report is therefore highly questionable on the basis of applicability at this point of time apart from issues relating to vulnerabilities of the data employed and methodologies employed in reaching conclusions.

A perusal of the ASCI study shows that the study concentrated only on five Indian languages namely, Hindi, Telugu, Tamil, Malayalam & English whereas languages such as Bengali, Marathi, Oriya and Kannada were not a part of the study's review of the media sector. It is interesting to note that the excluded languages account for three of the largest metro cities in India namely Kolkata, Mumbai and Bangalore. Again for instance, the study utilises TAM data to assess viewership sizes, whereas TAM data has historically and by the Authority's own assessment known to be skewed and unreliable. We are unsure as to whether a 'Final Report/Study' was ever published by the ASCI. The ASCI study significantly with the release does not base its conclusions/findings on the actual impact on concentration in the television and radio space as a result of the government's "subsidised public broadcasters" namely "Doordarshan" (DD) in the television space and "All India Radio" (AIR) in the radio space.

It is noteworthy that the ASCI study admits a lack of dominance in any Indian media sector merely pointing out to the emergence or possibility of concentration in relation to some regional languages clearly excluding media identities in the Hindi and English space. Basing the development of the regulatory environment on 'apprehensions' as opposed to existing and verifiable factual situations is a matter of extreme concern.

Apart from the ASCI study, there does not appear to be any other Indian assessment study that is based on the assessment of hard data that actually demonstrates the requirement for implicating additional media ownership/control restrictions. In our view, the ASCI study leaves much to be desired and should not therefore be the basis for the authority to 'assume' the requirement for restrictions and regulations on cross media ownership/control.

In fact, the ASCI study itself calls for a comprehensive review/study on the media sector in India ***prior*** to the Authority recommending controls on media ownership. The Authority should therefore re-consider its proposal to examine the modalities for placing restrictions on ownership/ control of an entity in terms of restriction on equity holding and cross holding restrictions. This is wholly misplaced and regressive particularly since the requirement for such restriction are incredibly based on a four year old study which was:

a. of a draft nature subject, we understand, subject to finalization but never finalized;
b. never subjected to peer review;
c. which admittedly undertook a limited language review, admitting that 4 major regional languages, regions accounting for 2 major metros and at least 5 major towns were not part of the study;
d. admitted lack of dominance or concentration in relation to English and Hindi language based media entities;
e. could never consider the actual impact of Competition law in India, particularly since the Act was comprehensively amended in 2009;
f. itself called for a more comprehensive study of the media sector prior to the institution of media control regulations.

E. <u>Technology convergence in India in the media space renders apprehensions of dominance/ concentration an illusion and in fact enhances view point plurality</u>

The emergence of converged technology deployment in India can be seen from the rapid emergence and expansion of the mobile/telecom platform over the past 5 years since the Authority's 2008 report. With 150 million internet users, India now has the 3rd largest Internet population in the world after China (at 575m) and the US (at 275m). India has nearly 950 million mobile subscribers and close to 50 million of these mobile subscribers access Internet via mobile handsets. The Internet is thus becoming more important in the scheme of Indian media consumption each year given that broadband penetration (which has since 2008 improved penetration substantially) is now paired with wireless distribution.

Social networking in India rooted equally strongly on the mobile space contributes in substantial measure, in fact, to the democratic process. The consumption of political and public interest information via mobile phones for instance is a clear indicator that the basis for considering regulations on media ownership is not as compelling an argument as it was five years. Access to news being available from a variety of sources capable of further broadcast to an every growing community of close friends, on-line friends, acquaintances and strangers allows news makers to speak directly to news consumers using social media tools. The '*Arab Spring*' more than one year ago, the '*Delhi Gang Rape'* protests this year and even more so the ongoing '*Shahbag movement*' in Dhaka, Bangladesh are evidence of the fact that the Internet enables individual citizens, converged by technology, the ability to speak in 'one voice', furthering the cause of democracy and of course ensuring this emerges from a base of "viewpoint plurality"! The argument that traditional media do – or could – control political discourse is therefore no longer correct.

F. The related issues are already subject to sufficient governmental regulation

The Competition Commission of India (CCI) is sufficiently constituted, and statutorily designated, to oversee regulation of the various issues referenced in the consultation paper. The Competition Act, 2002 vested in CCI, all necessary authority and responsibility to eliminate practices having adverse effect on competition, to promote and sustain competition, and protect consumer interests. It is unclear what additional benefits might accrue from now extending related authority for cross-media ownership to TRAI, particularly since the CCI already functions adequately in this respect. It would be inadvisable and inefficient for two different regulatory authorities to supervise the same issue(s).

Conclusion:

It is a matter of concern that media companies in India today continue to bear the brunt of multiple regulations and are now faced with a proposal to put in place even more regulations aimed at further stifling the growth rate of the media space already burdened with unreasonable regulation. Media control regulations hark back to a time that bears no resemblance to today's market place. The application of media control regulation in addition to existing regulations in the modern context in which they operate will serve to deliver a potentially fatal body blow to the plans of international media entities invested in India and those seeking a place in the Indian media market. Regressive regulations such as the media ownership rules mooted by the Authority can only harm the interest of consumers rather than promote viewpoint plurality. The inability of media companies to combine force to weather 'economic turbulence' will ultimately harm the interest of consumers given that ownership combinations that, if permitted, quite clearly would enable the provision of *more* local news and *more* diverse content.

We see an inexplicable 'rush" by the authority to suggest control/restrictions on media ownership despite the fact that the ASCI study carried out in 2009 is now dated from a statistical analysis point of view and there has been no updating of fresh study which would suggest the requirement of restrictions or control on media ownership based on an assessment of emerging or existing market concentration/dominance which in view of such study has served to affect viewpoint plurality.

While MPDA (India) has already sought an extension of the prescribed deadline via a letter dated February 28, 2013, this instant response is being submitted as a preliminary response to the substantive issues raised by the Authority, subject to a more substantive submission to be made to the Authority. It is respectfully urged that this instant document be treated as such. We look forward to your positive consideration of our request to extend the submission of the deadline.

Sincerely,

Uday Singh
Managing Director
Motion Picture Dist. Association India Pvt. Ltd.

Annexure-A

Background to the Consultation Paper of 2013

In 2008 (September 23, 2008) the Authority had released the "Consultation Paper on Media Ownership" (***"Consultation Paper of 2008"***).

A. Consultation Paper of 2008

The Consultation paper of 2008 sought to raise issues around the need for cross media ownership restrictions and whether the existing laws were adequate to cover the important parameter of the broadcasting sector. The report also sought to consider legal frameworks in other jurisdictions in relation to media ownership restrictions from a comparative analysis approach. The Study sought to examine issues of identifying market definition, vertical integration cross owner ship in the Telecom and media and broadcasting company's space along with criteria for measuring control / ownership.

B. Recommendations of 2009

In furtherance of the Consultation Paper of 2008 and in view of the comments of various stakeholders, TRAI released the "Recommendations on Media Ownership" on February 25, 2009 (***"Recommendations"***). After following an exhaustive consultation process, TRAI, on 25th February 2009, gave its recommendations to the Government covering the issues of horizontal integration, vertical integration, limit on the number of licenses held by a single entity, concentration of control/ ownership across media and control/ ownership across telecom and media companies.

C. Summary of Recommendations

a. Cross-media control/ ownership or Horizontal Integration. TRAI recommended putting in place regulation to ensure plurality and diversity across Tevision, Print and radio.

b. Vertical Integration: Eschewed allowing control between Broadcasting and Distribution companies in each other. Urged defining control to 20% equity
c. Urged limiting number of licenses held by a single entity
d. Urged developing cross media ownership rules across media as also Telecom and Media companies.
e. Recommended Study of Indian Media Space to ascertain data on concentration if any as also ascertain dominance in Indian media space if any

D. ASCI Study - Recommendations of ASCI

Taking forward the recommendations of the Authority, in 2009, the Ministry of Information and Broadcasting ("***MIB***") sponsored a study through the Administrative Staff College of India ("***ASCI***"). The study dealt with the nature and extent of cross media ownership, existing regulatory framework, relevant markets and international experience. ASCI submitted its study report including its recommendations to MIB, in July 20091. The ASCI report broadly reflected the findings of TRAI's 2008 Consultation paper stating that while there was no evidence of dominance in India, there was ample evidence of concentration in Indian media space. ASCI also recommended that the emerging convergence must be taken into account and the regulatory framework for media must be aligned to address competition concerns among the media spectrum. The regulatory framework, the ASCI also observed must be aligned to market realities in terms of convergence and would have to be framed in a holistic manner. Finally the ASCI recommended that a convergence regulator to cover all media access print, broadcasting and telecom must be established.

215 Atrium, A Wing, 206, Chakala, Andheri-Kurla Road, Andheri (East), Mumbai - 400059,
Tel: +91 (22) 61397000. Website: www.mpaa-india.org

ANNEXURE B

COUNTRY INDICATOR- RESTRICTIONS ON MEDIA OWNERSHIP AND DOMINANCE

Country	Disqualifications	Restrictions on domination within a media sector			Restrictions on domination by the media i.e. Cross Media restrictions		Restrictions on mergers and acquisitions:
		TV broadcasting	Radio broadcasting	Print Media	Two out of Three rule/Other Restrictions	Restrictions on limit of investment	
India	X	√	√	X	X	√	√
US	X	√	√	X	√	√	√
UK	√		√		√	X	X
France	X	√	√	√	√	√	√

Germany	√	√	X	X	√		√
South Korea	√	√	X	√	√	√	√
Canada	√	√	√	X	√		
Australia	X	√	√	X	√	√	√
South Africa	√	√	√	X			√

ANNEXURE C

COMPARATIVE ANALYSIS OF LAWS GOVERNING MEDIA OWNERSHIP IN INDIA AND OTHER COUNTRIES[1]

(CONSOLIDATED LIST)

Country	**Disqualifications**	**Restrictions on domination within a media sector**			**Restrictions on domination by the media i.e. Cross Media restrictions**		**Restrictions on mergers and acquisitions:**	**Source**
		TV broadcasting	**Radio broadcasting**	**Print Media**	**Two out of Three rule/other restrictions**	**Restrictions on limit of investment**		
India		The Licensee shall not allow Broadcasting Companies and/or Cable Network Companies to collectively hold or own more than 20% of the total paid up equity in its company at any time during the License period. [**Para 1.4 of Guidelines for Obtaining License for providing DTH Broadcasting Service**	*Restriction on multiple permissions in a city and other conditions*: Every applicant shall be allowed to run not more than 40% of the total channels in a city subject to a minimum of three different operators in the city and			FDI Limit in Broadcasting Sector (DTH, MSOs, HITS, Cable TV) is 74%. [Upto 49% is through Automatic route. From 49% to 74% investment will require FIPB approval]	Governed by the Takeover Code, Competition Act, 2002 and the Companies Act, 1956,	http://www.trai.gov.in/WriteReadData/ConsultationPaper/Document/CP_on_Cross_media_%2015-02-2013.pdf http://dipp.nic.in/English/Policies/FDI_Circul

*The highlighted portions are inconsistent findings in the TRAI Consultation Paper of 2013.
[1] The other countries apart from India being USA, UK, France, Germany, South Africa, South Korea, Canada and Australia.

		in India] The Licensee company not to hold or own more than 20% equity share in a broadcasting and/or Cable Network Company. [**Para 1.5 of Guidelines for Obtaining License for providing DTH Broadcasting Service in India**] Broadcasting Company(ies) and/or DTH licensee company(ies) will not be allowed to collectively hold or own more than 20% of the total paid up equity in the company (getting license for HITS operation) at any time during the permission period. Simultaneously, the HITS permission holder should not hold or own more than 20% equity share in a broadcasting company and/or DTH license	further subject to the provisions contained in para 8. However in case the 40% figure is a decimal, it will be rounded off to the nearest whole number. **[Para 7.1 of Policy Guidelines on Expansion of FM Radio Broadcasting Services Though Private Agencies (Phase-III)]** *Total Number of Frequencies that an entity may hold:* No entity shall hold permission for more than 15% of all channels allotted in the country excluding channels located in Jammu and Kashmir, North Eastern States and			FDI limit in Radio is 26%. Publishing of Newspaper and periodicals dealing with news and current affairs and Publication of Indian editions of foreign magazines dealing with news and current affairs-26% (FDI and investment by NRIs/PIOs/ FII) [Government Route] Publishing/printing of Scientific and Technical Magazines/specialty		ar_01_2012 .pdf

		company. Further, any entity or person holding more than 20% equity in a HITS permission holder company shall not hold more than 20% equity in any other broadcasting company(ies) and/or DTH licensee company and vice-versa. This restriction, however, will not apply to financial institutional investors. However, there would not be any restriction on equity holdings between a HITS permission holder company and a MSO/cable operator company. **[para 1.6 of HITS Guidelines]** While determining the shareholding of a Company or entity or person as per para 1.6 above, both its direct and indirect shareholding will be taken into account.	island territories. Only city wise limits as mentioned in para 7 will apply to channels located in Jammu and Kashmir, North Eastern States and island territories. [Note (1): The channels allotted to the following categories of companies would be reckoned together for the purpose of calculating the total channels allocated to an entity: a. Subsidiary company of any applicant/ allottee; b. Holding company of any applicant / allottee; c. Companies with the Same Management as that of applicant/ allottee;			journals/ periodicals, subject to compliance with the legal framework as applicable and guidelines issued in this regard from time to time by Ministry of Information and Broadcasting and Publication of facsimile edition of foreign newspapers- 100% [Government Route]		

		The principle and methodology to determine the level of indirect holding shall be the same as has been adopted in Press Note 2 of 2009 dated 13.2.09 of the Department of Industrial Policy and Promotion under the Ministry of Commerce and Industry for determination of indirect foreign investment. **[Para 1.7 of the HITS Guidelines]**	d. More than one Inter-Connected Undertaking with regard to the applicant/ allottee. Note (2): In respect of existing license/permission /LOI holders, the license(s)/permission(s)/LOI(s) already held by them shall also be taken into consideration for calculating the 15% limit.] **[Para 8.1 of Policy Guidelines on Expansion of FM Radio Broadcasting Services Though Private Agencies (Phase-III)]**					

US	[2]**Specific Qualifications required.**	National TV Ownership: • No limit on the number of TV stations a single entity may own nationwide as long as the station group, collectively, does not reach more than 39% of all U.S. TV households. [*National Television Ownership Limit* enacted by US Congress, 2004] Local TV multiple ownership: • An entity may own two stations in the	The rule imposes restrictions based on a sliding scale that varies by the size of the market: • In a radio market with 45 or more stations, an entity may own up to eight stations, no more than five of which may be in the same service (AM or FM) • In a radio market with between 30 and 44 stations, an entity may		Local radio ownership rule. A person or single entity (or entities under common control) may have a cognizable interest in licenses for AM or FM radio broadcast stations in accordance with *certain restrictions*. Local television multiple ownership	Section 310 of the Communications Act of 1934,as amended by the Telecommunications Act of 1996, imposes foreign ownership restrictions on U.S. broadcast, common carrier, or aeronautical radio station licensees. Section 310 covers foreign ownership	Dual TV Network ownership: The rule prohibits merger among any two or more of these television networks: ABC, CBS, Fox and NBC. **[Provided by FCC and is subject to quadrennial review]**	http://www fcc.gov/guides/review-broadcast-ownership-rules http://hraun foss.fcc.gov/edocs_public/attachmatch/DOC-312850A1.pdf http://www ictregulationtoolkit.org /en/Practice Note.1803.html http://www gpo.gov/fds

[2] The Communications Act of 1934 (Act), 47 U.S.C. 151 et seq., establishes a comprehensive framework for federal regulation of the transmission and use of radio signals in the United States. The Act establishes a federal policy of “maintaining the control of the United States over all the channels of radio transmission” and “provid[ing for the use of such channels, but not the ownership thereof, by persons for limited periods of time, under licenses granted by Federal authority.” 47 U.S.C. 301. The Act requires persons seeking to engage in radio or television broadcasting to obtain a broadcast license for a limited, but renewable, period of time from the Federal Communications Commission (FCC or Commission), ibid., and prohibits the assignment or transfer of any such license without the Commission’s prior approval, 47 U.S.C. 309(h), 310(d).**[See note on Foreign ownership in telecommunications section in the United States: http://www.ictregulationtoolkit.org/en/PracticeNote.1803.html]**

		same DMA (Designated Market Area) if either (1) the service areas of the stations do not overlap or (2) at least one of the stations is not ranked among the top four stations in DMA (based on market share) and at least eight independently owned TV stations would remain in the market after the proposed combination. **[Provided by FCC and is subject to quadrennial review]**	own up to seven radio stations, no more than four of which are in the same service • In a radio market with between 15 and 29 stations, an entity may own up to six radio stations, no more than four of which are in the same service • In a radio market with 14 or fewer radio stations, an entity may own up to five radio stations, no more than three of which are in the same service, as long as the entity does not own more		rule. An entity may directly or indirectly own, operate, or control two television stations licensed in the same Designated Market Area (DMA) (as determined by Nielsen Media Research or any successor entity) only under one or more of *certain restrictions*. **[§ 73.3555 of 47 CFR Ch. I]** Radio-television cross-ownership rule—(1) This rule is triggered when: (i) The predicted	restrictions applicable to FCC licences, and Section 310(b)(4) in particular is implicated in the majority of cases where foreign ownership is an issue.		ys/pkg/CFR-2011-title47-vol4/pdf/CFR-2011-title47-vol4-sec73-3555.pdf

			than 50% of all stations in that market. • Overlap between two stations in different services is permissible if neither of those two stations overlaps a third station in the same service. [***Provided under the Rule making powers of the FCC***]		or measured 1 mV/m contour of an existing or proposed FM station (computed in accordance with §73.313) encompasses the entire community of license of an existing or proposed commonly owned TV broadcast station(s), or the Grade A contour(s) of the TV broadcast station(s) (computed in accordance with §73.684) encompasses the entire community of license of the FM station; or (ii) The			

					predicted or measured 2 mV/ m groundwave contour of an existing or proposed AM station (computed in accordance with §73.183 or §73.386), encompasses the entire community of license of an existing or proposed commonly owned TV broadcast station(s), or the Grade A contour(s) of the TV broadcast station(s) (computed in accordance with §73.684) encompass(es) the entire community of license of the			

					AM station. An entity may directly or indirectly own, operate, or control up to two commercial TV stations (if permitted by the local television multiple ownership rule) and one commercial radio station situated as described in local radio ownership rules. An entity may not exceed these numbers, except as follows: If at least 20 independently owned media voices would remain in the market post-			

					merger, an entity can directly or indirectly own, operate, or control up to: Two commercial TV and six commercial radio stations (if permitted by the relevant rules) or One commercial TV and seven commercial radio stations (to the extent that an entity would be permitted to own two commercial TV and six commercial radio stations, and to the extent permitted the local radio multiple ownership				

					rule). If at least 10 independently owned media voices would remain in the market post-merger, an entity can directly or indirectly own, operate, or control up to two commercial TV and four commercial radio stations (to the extent permitted by the local radio multiple ownership rule). In the largest market, an entity may own up to two TV and six radio stations or one TV and seven radio stations.			

					[§ 73.3555 of 47 CFR Ch. I]				
UK	The following entities are prohibited from holding a broadcast license: • Local Authorities • Political Organizations • BBC (British Broadcasting Corporation)& the Welsh Authority • Advertising Agencies and • Persons who in the opinion of the Office of Communications (Ofcom) are subject to undue influence by a disqualified person such as to act against public interest • Religious bodies		• No restrictions on holding of national analogue radio licenses. • In case of Digital Multiplexes, at national level, no person can hold more than one national radio multiplex at the same time. However, at the local level, no person can hold two licenses for overlapping radio multiplex services. **[Schedule 2, Part III , Paragraph 11**		No person can acquire channel 3 license if he runs one or more national newspapers having an aggregate market share of 20% or more. **[Schedule 14, Part I, Paragraph 1(a) of the Communications Act, 2003]** The holder of a channel 3 license may not acquire an interest of 20% or more in a corporate body running one or more national newspapers			Communic ations Act: http://www legislation. gov.uk/ukp ga/2003/21 pdfs/ukpga _20030021 _en.pdf Broadcastir g Act: http://www legislation. gov.uk/ukp ga/1990/42

	may not hold licenses for the commercial TV channels, national analogue radio services, public tele-text, additional TV services, TV multiplexes and radio multiplexes17. In other cases license may be awarded subject to the approval of Ofcom. • Public funded bodies (i.e. receiving more than 50% of funding from the public purse) cannot hold radio service licenses (except for restricted services). • BBC subsidiaries may not hold licenses for (a) regional or		**of the Broadcasting Act 1990]** • At local level, no person who holds more than two local licenses that overlap and where addition of the acquired license would give rise to that person holding more than 55% of the total points available in that area may acquire a further license. • A person may not acquire a local radio license if he would thus acquire more than 45% of the total points in a relevant area. **[from**		with an aggregate market share of 20% or more. **[Schedule 14, Part I, Paragraph 1 (b) of the Communications Act, 2003]** At local level, a person may not acquire a regional channel 3 license if he runs one or more local newspapers having an aggregate market share of 20% or more in the area covered by the regional channel 3 license. Market share is calculated by reference to the circulation for			

	national commercial television services licenses (b) national, local or restricted radio services. • National public telecommunications operators with annual turnover in excess of 2 billion pounds may not hold licenses for a national radio service license and commercial television channels. **[Part II of Schedule 2 of the Broadcasting Act, 1990]**		**the 2013 consultation paper]** A person is not to hold any two local radio multiplex licences at the same time where the coverage area of one of the licensed services overlaps with the coverage area of the other in a way that means that the potential audience for one of them is or includes at least half the potential audience of the other. **[Schedule 14 Part 2, Paragraph 8 of Communications Act, 2003]**		the preceding six months. **[Schedule 14, Part I, Paragraph 2 of the Communications Act, 2003]** In case of local analogue radio licenses and newspapers or television service licenses, the order appoints a point system which prevents a person holding one or more local newspapers with aggregate market share of 50% or more and holders of channel 3 regional license from holding local analogue radio licenses.			

					No single person may hold, a local analogue radio license, a regional channel 3 license whose potential audiences includes 50% of the audience of the analogue radio service and one or more local newspapers which have a local market share of 50% or more in the local coverage area. Restriction on national newspapers holding commercial TV licenses. **[from the 2013 consultation**			

					paper of India]			
France		Capital share, number of licence (together with audience share), participation in more companies in the same sector: • Physical or legal person not more than 49% (national TV) and 33 % (local TV) of the capital or voting rights in a station whose average annual audience exceeds 2.5 % of the total audience. • If a person holds 2 stations he cannot hold more than 15% in the second • If a person owns 3 stations he cannot hold more than 5% in the third. **[Article 39 of Law**	1. For radio, an entity may not control one or more stations or network(s) if the aggregate audience exceeds 150 million. **[Article 41 of Law No. 86-1067 of 30 September 1986 on freedom of communication (Act Leotard)]** 2.Non-EU investment is limited to a 20% share of the capital of a terrestrial Radio service in French language. **[Article 40 of Law No. 86-1067 of 30 September 1986 on freedom of**	Companies are not allowed to acquire a new newspaper if the acquisition boosts their total daily circulation to over 30% nationally.	Yes. An operator may not be involved in more than two of the following situations: -TV audience of 4 million -radio audience of 30 million -cable audience of 6 million - 20% share of national daily newspaper. **[Article 41-1 of Law No. 86-1067 of 30 September 1986 on freedom of communicatio n (Act Leotard)]** 5.Further restrictions are	Non-EU investment is limited to a share of 20% of a capital of a daily newspaper or of a terrestrial broadcasting in French language. **[Article 40 Law No. 86-1067 of 30 September 1986 on freedom of communicatio n (Act Leotard)]**	1.Companies are not allowed to acquire a new newspaper if the acquisition boosts their total daily circulation over 30%. 2. While the Competition authorities are obliged to consult with the CSA on mergers and acquisitions in media matters it is the sole responsibility of the CSA to monitor mergers and cross media	http://www legifrance.g ouv.fr/affic hTexte.do;j sessionid= BA9F821A 41D1125C CC0E18A D427D686 A.tpdjo08v _3?cidText e=JORFTE XT000000 512205&da teTexte=20 130305

		No. 86-1067 of 30 September 1986 on freedom of communication (Act Leotard)] Terrestrial TV: not more than one (analogue) or 7 (digital) stations, Satellite TV: not more than two licences There is a ban on owning two regional broadcast TV licenses (analogue and digital) or more than one license if the audience area is greater than 4 million **[Article 41-1 of Law No. 86-1067 of 30 September 1986 on freedom of communication (Act Leotard)]**	**communication (Act Leotard)]**		noted at the local level: a)Owning a national or local TV license for the area, b)Owning one or more radio licenses with cumulative audiences of more than 10% for that area, c)Owning a cable network for the area and d)Editorial or other control of daily newspapers in the area. **[from the 2013 consultation paper of India]**		ownership. Shareholders have the obligation to report to the CSA when their holding exceeds 10% so the CSA can effectively monitor share capital ownership. As per French legislation, cross-media mergers are regulated by Law 86-1067 (Loi Léotard) which was revised on 10 July 2004. **[Article 12 of Law No. 86-1067 of 30 September 1986 on freedom of communicat**	

							ion (Act Leotard)] 3. At national level, an individual or legal entity can be involved only in two of the following areas: one or more television licences for analogue or digital terrestrial channels reaching four million residents; one or more terrestrial radio services reaching 30 million people; daily papers that have a market share	

							of more than 20 percent of the national circulation. **[Article 41-1 of Law No. 86-1067 of 30 September 1986 on freedom of communication (Act Leotard)]**	
Germany	Political parties and organisations are excluded from holding a licence for TV or radio channels. **[State Treaty for Broadcasting and Telemedia, Section III, Third Subsection, § 20a (3)]**	Limits based on audience share in order to prevent exercise of dominant opinion forming power: 30 % of the national market in a given year. A market share of 25 % is attained and the company thus holds a dominant position in a media related market. **[State Treaty for Broadcasting and Telemedia, Section**			Interdiction for companies to exercise a predominant impact on public opinion e.g. a company reaches an audience share of 25% and holds a dominant position in a related media market or an overall assessment of its activities in		Filing of the Federal cartel office is required if at least one party amounts 25 million Euro turnover in the last business year. For other sectors the limit is 500 million Euro.	http://www.landesrecht-hamburg.de/jportal/portal/page/bshaprod.psml;jsessionid=28D4395A28A00A64C40D0A4C98D5149C.jpj4?showdoccase=1&doc.id=jlr-RdFunkStVtrHArahmen&doc.part=X&doc.or

		III, Third Subsection, § 26(2)]			TV and media related markets suggest an influence equivalent to a company with a viewer rating of 30%. **[State Treaty for Broadcasting and Telemedia, Section III, Third Subsection, § 20a (3)]**		**[Section 7, §35(2) of the Act Against Restrain of Competition .]** New Bagatellklausel: purchases of small publishers (turnover up to 2 Mio €) possible. In cases of mergers of printed media publishers a maximum share of only 24,5% is permitted. **[From the 2013 consultation paper of India]**	igin=bs&st =lr http://www gesetze-im-internet.de/ gwb/BJNR 252110998 html

South Korea	Only South Korean citizens and entities owned by citizens may obtain a license for broadcasting. **[Article 13 of the Broadcasting Act,]** Only a South Korean citizen can qualify as a publisher or an editor of any periodical and any Internet Newspaper. **[Article 13 of the Act On The Guarantee Of Freedom And Functions Of Newspapers, Etc.]**	Restriction on owning more than 30 percent of stock of a terrestrial broadcasting licensee and a news broadcasting program provider is not allowed. **[Article 8 of the Broadcasting Act]**		The combined market share of the top three newspapers shall not be more than 60%.**[From the 2013 consultation paper of India]** The business operator who falls under any of the following subparagraphs from among the business operators who issue general dailies and special dailies (excluding any daily newspaper which is issued for the purpose of propagating information free of charge) shall be deemed the market-dominating business operator	The simultaneous ownership of broadcasting stations and newspapers and news agencies is prohibited. **[Article 15(2) of the Act On The Guarantee Of Freedom And Functions Of Newspapers, Etc.]** A daily newspaper cannot operate a broadcasting station or a program provider simultaneously if the gross amount of assets exceeds 3 trillion WON (Article 8(3) of the Broadcasting Act). **[From**	For terrestrial broadcasting business, a program providing business engaged in general programming or specialized programming of news reports, and a CATV relay broadcasting business only by Presidential Decree to a limit of 49%. **[Article 14(1) and (3) of the Broadcasting Act]** For satellite broadcasting business-33% of the total stocks/equity shares. **[Article 14(2) of the Broadcasting Act]**	A person who holds 1/2 or more of stocks or shares issued by a legal entity carrying on daily newspaper, news communications or broadcasting business (including that affiliated enterprise of the said legal entity which is provided for by Presidential Decree and which holds them) shall neither acquire nor hold 1/2 or more of stocks or shares issued by any other legal entity	http://www.moleg.go.kr/english/korLawEng;jsessionid=j3nMXRYvxmrBzpMlDxmBKsV0Wv4PQdAEAZ06nsvbj8BcHnffXU3SabY1cSvZFlZL.moleg_a1_servlet_engine2?pstSeq=47559&brdSeq=33

				provided for in subparagraph 7 of Article 2 of the Monopoly Regulation and Fair Trade Act, notwithstanding the provisions of Article 4 of the same Act: 1. One business operator whose market share accounts for not less than 30/100 of the average number of newspapers issued nationwide for 12 months of the preceding year; and 2. 3 or more business operators whose total market share accounts for not less than 60/100 of the average number of	**the 2013 consultation paper of India]** The corporate owner of a daily newspaper or a news agency cannot own the stock or equity shares in cable broadcasting or satellite broadcasting companies. **[Article 8(3) of the Broadcasting Act).]**		carrying on daily newspaper or news communications business. **[Article 15(3) of the Act On The Guarantee Of Freedom And Functions Of Newspapers, Etc.]**	

				newspapers issued nationwide for 12 months of the preceding year: Provided, That any person whose market share is less than 10/100 shall be excluded. **[Article 13 of the Act On The Guarantee Of Freedom And Functions Of Newspapers, Etc.]**				
Canada	The Commission has decided to: Impose limits on the ownership of broadcasting licences to ensure that one party does not control more than 45 per cent of the total television audience share as a result of a transaction; and	CRTC will not approve a transaction that would result in one party controlling more than 45 per cent of the total audience share, including conventional, pay and specialty television services. Additionally, the Commission will: • carefully	In markets with fewer than eight commercial stations operating in a particular language, a person may be permitted to own or control as many as three stations operating in that language, with a maximum of two stations in any one frequency		The CRTC has decided to restrict cross-media ownership in order to ensure that Canadians continue to benefit from a range of perspectives in their local news coverage. Under the new			http://www crtc.gc.ca/e ng/com100 2008/r0801 15.htm

	not approve transactions between companies that distribute television services (such as cable or satellite companies) that would result in one person effectively controlling the delivery of programming in a market. CRTC will not approve a transaction that would result in one person effectively controlling the delivery of programming services (broadcasting Services) in a single market.	examine transactions that would result in one party controlling between 35 per cent and 45 per cent of the total audience share, and • expeditiously approve transactions that would result in one party controlling less than 35 per cent of the total audience share, assuming there are no other concerns. However, an ownership group can increase its audience share beyond 45 per cent by operating and growing its existing assets without causing the Commission concern.	band. In markets with eight commercial stations or more operating in a particular language, a person may be permitted to own or control as many as two AM and two FM stations in that language.		approach, a person or entity may only control two of the following types of media that serve the same market: a local radio station, a local television station, or a local newspaper.			
Australia		(1) A person must not be a director of a company that is, or of 2 or more companies that are, between them, in a position to exercise control of	A person must not be in a position to control more than two licences in the same licence area **[Section 54 of the Broadcasting**		A person must not control: A commercial television broadcasting licence and a	Prior to the enactment of the Broadcasting Services Amendment (Media	Governed by Section 50 of the Trade Practises Act, 1974.	http://www austlii.edu. au/au/legis/ cth/consol_ act/bsa1992 214/index.h tml#s61aea

		commercial television broadcasting licences whose combined licence area populations exceed 75% of the population of Australia. **[Section 55 of the Broadcasting Services Act, 1992]** (2) A person must not be: (a) in a position to exercise control of a commercial television broadcasting licence; and (b) a director of a company that is in a position to exercise control of another commercial television broadcasting licence; whose combined licence area populations exceed 75% of the population of Australia. **[Section 55 of the**	**Services Act, 1992]**. Limitation on Directorship: A person must not be: (a) a director of a company that is, or of 2 or more companies that are, between them, in a position to exercise control of more than 2 commercial radio broadcasting licences in the same licence area; or (b) a director of a company that is, or of 2 or more companies that are, between them, in a position to exercise control of 2 commercial radio broadcasting licences in a licence area and in		commercial radio broadcasting licence having the same licence area. A commercial television broadcasting licence and a newspaper associated with that licence area or a commercial radio broadcasting licence and newspaper associated with that licence area. **[Repealed by the 2006 Amendment]** **Unacceptable 3-way control situation**: For the	Ownership) Act 2006 (Cth) the BSA contained a number of provisions that specifically applied to foreign ownership of commercial television broadcasting services. However, the BSA no longer contains any provisions restricting foreign ownership. Instead the Foreign Acquisitions and Takeovers Act 1975 (Cth) ("FATA") and Australia's Foreign Investment Policy regulate foreign ownership of the Australian		http://www.comlaw.gov.au/Details/C2006A00129

		Broadcasting Services Act, 1992] (3) A person must not be: (a) a director of a company that is in a position to exercise control of a commercial television broadcasting licence; and (b) a director of a company that is in a position to exercise control of another commercial television broadcasting licence; if each of those licences have the same licence area. **[Section 55 of the Broadcasting Services Act, 1992]** (4) A person must not be: (a) a director of a company that is in a position to exercise control of a commercial television	a position to exercise control of another commercial radio broadcasting licence in the same licence area; or (c) in a position to exercise control of 2 commercial radio broadcasting licences in a licence area and a director of a company that is in a position to exercise control of another commercial radio broadcasting licence in the same licence area. **[Section 56 of the Broadcasting Services Act. 1992]**		purposes of this Division, an unacceptable 3-way control situation exists in relation to the licence area of a commercial radio broadcasting licence (the first radio licence area) if a person is in a position to exercise control of: (a) a commercial television broadcasting licence, where more than 50% of the licence area population of the first radio licence area is attributable to the licence area of the commercial television	media. In General, the Treasurer has the power to stop substantial acquisitions of Australian assets which are contrary to the national interest.		

		broadcasting licence; and (b) in a position to exercise control of another commercial television broadcasting licence; if each of those licences have the same licence area. **[Section 55 of the Broadcasting Services Act, 1992]** A person must not control television broadcasting licences whose combined licence area exceeds 75 per cent of the population of Australia, or more than one licence within a licence area **[Section 53 of Broadcasting Services Act, 1992]**			broadcasting licence; and (b)a commercial radio broadcasting licence, where the licence area of the commercial radio broadcasting licence is, or is the same as, the first radio licence area; and (c)a newspaper that is associated with the first radio licence area. **[Section 61 AEA of the Broadcasting Services Act, 1992]** **(Interpretation clause of the Act)**			

					Definition- Unacceptable 3-way control situation For the purposes of this Division, an unacceptable 3-way control situation exists in relation to the licence area of a commercial radio broadcasting licence (the first radio licence area) if a person is in a position to exercise control of: (a) a commercial television broadcasting licence, where more than 50% of the licence area population of the first			

					radio licence area is attributable to the licence area of the commercial television broadcasting licence; and (b) a commercial radio broadcasting licence, where the licence area of the commercial radio broadcasting licence is, or is the same as, the first radio licence area; and (c) a newspaper that is associated with the first radio licence area.			

South Africa	A foreigner may not, whether directly or indirectly 1.Exercise control over a commercial broadcasting licensee, or 2.Have a financial interest or an interest either in violating shares or paid-up capital in a commercial broadcasting licensee, exceeding 20% Not more than 20% of the directors of a commercial broadcasting licensee may be foreigners. **[Section 64 of Electronic communications Act,2005]**	No person may--- 1.Directly or indirectly exercise control over more than one commercial broadcasting service license in the television broadcasting service; or 2.Be a director of a company which is, or of two or more companies which between them are in a position to exercise control over more than one commercial broadcasting service license in the television broadcasting service; or 3.Be in a position to exercise control over a commercial broadcasting service license in the television broadcasting service and be a director of any company which is in a position to exercise control over any other	No person may--- 1. Be in a position to exercise control over more than two commercial broadcasting service licenses in the FM sound broadcasting service. **[Section 65 (2) (a) of the Electronic Communications Act, 2005]** 2. Be a director of a company which is, or of two or more companies which between them are, in a position to exercise control over more than two commercial broadcasting service license in the AM sound broadcasting services. **[Section 65 (2)(b) of the Electronic communications**				1. No person who controls a newspaper, may acquire or retain financial control of a commercial broadcasting service license in both the television broadcasting service and sound broadcasting (radio broadcasting) service. A 20% shareholding in a commercial broadcasting service license, in either the television broadcasting service or sound broadcasting service, is	http://www info.gov.za view/Down loadFileAct ion?id=678 90

		commercial broadcasting service license in the television broadcasting service. **[Section 65(1) (a)(b)(c) of Electronic communications Act,2005]**	**Act,2005].** No person may— 1.be in a position to exercise control over more than two commercial broadcasting service licences in the AM sound broadcasting service; 2. be a director of a company which is, or of two or more companies which between them are, in a position to exercise control over more than two commercial broadcasting service licences in the AM sound broadcasting services; or 3. be in a position to exercise control over two commercial broadcasting service				considered as constituting control. 2. No person who is in a position to control a newspaper may be in a position to control a commercial broadcasting service license, either in the television broadcasting service or sound broadcasting service, in an area where the newspaper has an average ABC(Audit bureau of circulations of South Africa) circulation of	

			licences in the AM sound broadcasting service and be a director of any company which is in a position to exercise control over any other commercial broadcasting service licence in the AM sound broadcasting service. **[Section 65 (4) of the Electronic Communications Act, 2005]** No person referred to in subsection 65(4) may be in a position to control two commercial broadcasting service licences in the AM sound broadcasting service, which either have the same licence areas				20% of the total newspaper readership in the area, if the license area of the commercial broadcasting service license overlaps substantially with the said circulation area of the newspaper. **[Section 65 (1)(2)(3)(4) of Electronic communications Act,2005]**	

			or substantially overlapping licence areas. **[Section 65(5) of the electronic Communications Act, 2005]**					