



**ASCI's response to comments made by
STAR India on the ASCI Report in STAR India's
Submissions on the TRAI Consultation Paper
On 'Issues relating to Media Ownership'**

April 29, 2013

For any clarifications please contact:

**Dr Paramita Dasgupta
Administrative Staff College of India
Bella Vista, Hyderabad
Phone: 040-66534212, Email: pdg@asci.org.in**

**ASCI's response to comments made by
STAR India on the ASCI Report in STAR India's
Submissions on the TRAI Consultation Paper
On 'Issues Relating to Media Ownership'**

The Study Report entitled "Cross Media Ownership in India" was awarded to ASCI in October 2008 by the Ministry of Information and Broadcasting, Government of India on the basis of a technical and a financial bid. The terms of reference and scope of the study were given to ASCI by the Ministry. ASCI submitted the Draft Report in March 2009 and the Final Report in July 2009. Below we provide our response to Star India's comments on the ASCI Report.

Section V.I: As mentioned above, the Draft Report and Final Report was submitted to the Ministry of Information and Broadcasting respectively in March and July 2009. The Draft Report was put into the public domain in 2012 by the Government after 3 years of submission. The media sector is very dynamic and driven by technological change. A study like this has to be owned and continually updated by the government for updating the relevant data whenever required. There should be a mechanism by which the data is collected and analysed on a regular basis. ASCI has submitted the Final Report in July 2009. Quite obviously, the ASCI Report is now dated.

V.I (a) and (b) These regulations came in 2011 while the Report was submitted in 2009. Obviously they could not be included in the Report.

V.I (c) We covered 9 states in our Final Report. 4 out of 5 states mentioned in the comments are covered in the Final Report.

V.II The statement 'Moreover ' was meant to illustrate that over and above cross media ownership, shareholding patterns are also concentrated. We have not measured concentration in terms of shareholdings. This is a

mere linguistic expression. In the analysis concentration is measured in terms of HHI which is based on market share.

Our conclusions and recommendations are based on data analysis in the Indian context alone although we have examined the situation in international markets.

V.III Regarding the comment on “utmost dependency on Cable Quest” we would first of all like to say that there is very little literature available on the status of media ownership in India. Still, of the 84 references in the Report only 10 are from Cable Quest. Hence the phrase “utmost dependency” is unwarranted. Our analysis is not based on what Cable Quest has put out.

Regarding Star Den, what is the meaning of “representation of broadcasters?”. Please define which broadcaster Star Den represents. In our understanding Star Den is an MSO.

V.IV Why does the author find our study self contradictory? Monopoly is conceptually different from concentration. We have in fact said in our Report that even if there is cross media ownership, the case for restrictions is weaker if there is no concentration. “Vibrant market” does not mean that there is no concentration or domination on the market. Competition Acts address oligopolies as well as monopolies. These comments made by Star indicate a complete lack of understanding regarding market structures and basic economic concepts like monopoly, oligopoly and concentration on the part of the STAR author.

V.V The objectives and terms of reference of the study were laid down by the Ministry of Information and Broadcasting, Government of India. The Study comprises policy research by an independent body, namely ASCI, on the request of the Ministry, for facilitating policy intervention. There is no question of pre judging the issue on the part of ASCI.

The 'emphasis ours' to facilitating policy intervention by the Star commentator introduces the bias. It looks like the comment itself is biased against policy intervention.

V.VI The sentence starting "the entire study" plays with words and is a semantic struggle. This is a research study with a research methodology and approach. There is no business interest involved in this study. It also may be noted that there is no comprehensive data on ownership available in the media sector.

The sentence beginning "it is possible to visualize" : Perhaps the author of the comments of STAR India is not acquainted with research methodology. The two bullets constitute the two major hypothesis which we have proceeded to substantiate very successfully through data analysis in our study. It is not speculative at all. It is based on approaches which are tried and tested and our conclusions have been reached through analysis of data.

V.VII Regarding lack of independence and objectivity: Does the author understand that this was a research study sponsored by the government? In any such study the standard methodology is that we have to work closely with the government. This meant that the government provided ASCI with data on ownership and viewership and facilitated interviews with stakeholders. **However, the analysis was carried on by ASCI independently of government views.** The conclusions were based on what the data showed. This study constitutes what is known as policy research. Regarding the author's comments on competency of ASCI, we wonder what the author knows about ASCI and its capabilities for data collection and analysis. We wonder what capability the author has for commenting on ASCI's research capabilities. ASCI is not a business house. It is not driven by a profit motive. ASCI is a national institution which has been around for 56 years with proven competence in the area of policy research. We wonder what competence

STAR India has in research to make comments on ASCI's research methodology. The comments of STAR India comprise of a collection of accusations without any basis.

V.VIII Regarding selection of ASCI, we would once again like to ask what the author knows about ASCI and its research capabilities. 'Soft skills' is an irrelevant phrase in the context of research and analysis. Regarding transparency in awarding the study to ASCI, as we have mentioned earlier the study was awarded to ASCI on the basis of a bidding process comprising of technical and financial bids. The only reason that STAR India is objecting so much is because the report has hurt its business interests. ASCI has no interest in this. We have submitted a research report based on analysis of data in an open transparent fashion with accepted methodology, four years ago. The report was accepted by the Government and the Ministry which has sponsored the study.

V.IX The study is four years old, Statements regarding reliance on reports that have come out after the study are meaningless and obvious.

The statement which reads 'the report itself ' is called 'limitations of data' in technical language. Perhaps the author of the STAR India is not aware of this.

V.X Regarding the issues plaguing the cable and broadcasting sector, we would like to say that the terms of reference of the study did not include discussion on the cable industry and its maladies. The ASCI study has adhered to the TORs given to us. There are many aspects of the industry which the study has not looked at. Regarding the further details of the MSOs, Cable etc., these are irrelevant to TORs of the study.

V.XI Findings on STAR: the ASCI study related to ownership data provided to us by the Ministry of Information & Broadcasting. There is no process by

which original ownership data at the time of licensing is updated when changes occur. The comment made by Star India in this connection exactly supports our contention that there is a gap in data collection and updation. We would like to ask when was the Star stake in Hathway cable sold? Was it before or after 2008? We submitted our Final Report in July 2009. The Report is 4 years old.

V.XII We have said that cross media ownership is **prevalent** in India. Regarding the statement “moreover a large number of” : this is based on analysis of data on shareholdings which is presented in the report. Regarding the comment on “ownership plurality”, we would like to say that plurality is not borne out by data or HHI. This statement is not borne out by facts.

V.XII On the concept of relevant market: It is important to understand the difference between availability vs relevance. This has been discussed in detail in the ASCI Report. The concept of relevant market defines the broad contours of a substitutable set for the consumer. The author of the STAR comments has obviously not understood the concept of the relevant market. The study has not ‘surmised’ the concept. This concept is defined in the Competition Act and has been applied to the media sector through data analysis.

V.XIII Regarding relevance upon census 2001: It may be noted that in 2009 this was the census data that was available,

V.XIV Regarding the concept of geographic market: the concept is not a “regional market” one. The definition of the relevant geographic market is provided in p. 44 of the ASCI Final report. The relevant geographic market comprises the area in which the undertakings concerned are involved in the supply and demand of products or services in which the conditions of competition are sufficiently homogeneous and which can be distinguished from neighbouring areas because the conditions of competition are appreciably different in those areas. The STAR commentator obviously did not understand the concept of the relevant geographic market.

Regarding the point made about people from different States living in any particular State: The report has not mentioned any particular State. TV Channels in any particular language are aired across states and can be viewed by anyone in any State. Once again, the commentator has not understood the concept of the relevant market.

V.XV Regarding choice of experts: Please see acknowledgements section in the Draft and Final Report where all experts, resource persons and consultants have been named.

V.XVI Flawed methodology: The point raised is 'data limitation' which has been acknowledged and pointed out. The commentator is quoting our report back at us.

V.XVII Interpretation of HHI: We have not said that HHI is the 'sole indicator' of concentration. We have said that it is frequently used to measure concentration. Further, we wonder why our statements are being quoted back at us e.g., a higher HHI index is only suggestive of further studies to be made in the market. The commentator is also contradicting himself. To continue, once again, the Report is 4 years old. We cannot help the fact that today the market scenario is different. But the point remains, that whether there are 800 channels or 8000 channels the relevant market for a channel is different from the total number of channels available. 800 channels do not represent the competitive space just because they are 'available'. The point regarding the guidelines of the US Department of Justice is once again talking about the revision in guidelines that has taken place in 2010 when our Report was submitted in 2009. These comments are constantly being repeated. Please do not make the same criticism about outdated data again and again because it is pointless. Further we wonder why, while on one hand, the commentator has criticized HHI as a measure of concentration, he proceeds to quote the horizontal merger guidelines of the U.S. that has used HHI. The commentator is contradicting himself. We hope that the commentator understands the concept of HHI. Moving on, the comments on the methodology and data of market shares are not valid unless the commentator has himself conducted an analysis based on data which reflects current reality on the market. The table

numbers referred to in the comments have changed in the final report. Our comments are different.

V.XVIII We have used RNI data because it was available for the relevant time frame.

V.XIX What is the meaning of 'different hierarchies' in the distribution chain? Competition has nothing to do with 'hierarchies'. Further, notwithstanding remedies available to LCOs, our point remains same. If a media group owns a large bouquet of channels with high viewership and is also vertically integrated, then an LCO can be denied carriage of that large bouquet of channels. In that case consumers may move from the LCO to the MSO and the LCO can be wiped out. Regarding the relationship of STAR and LCO, there is no process of updation of ownership status. Therefore we had made our analysis based on data available. Regarding the point of 'motivated attack' on a particular group: first of all there is no need for us to do a 'motivated attack'. ASCI has no business interest. We are not driven by the interest to pull up or push down any group, small large or medium. We are an autonomous not-for-profit organization. ASCI is asked very often for undertaking research on important policy matters by the Gol. Many of our reports have been the basis for policy changes by the Gol. In this study, our viewership data is drawn from TAM. This repeated reference to Cable Quest smacks of desperation to establish a reasoning/connection where there is none. Our conclusions are based on our own analysis of data. This kind of a study on media ownership in India is the first of its kind.