

CROSS MEDIA OWNERSHIP: A NEMESIS TO FREE MEDIA

- Yash Dutt & Shekhar Yadav***

ABSTRACT

Dominance and monopoly have never proved out to be beneficial for the end consumer in any market; similarly, the present scenario prevailing within the media industry is that of leverage and mastery of some behemoths of the industry over the commodity called “Information”. The congestion caused by the influx of various media outlets and channels for the dispensation of information from various forums and sources has been the result of the supremacy of some few organizations exercising what has been termed as cross mediaownership. This paper analyses this phenomenon of monopoly and the ownership pattern of such organizations and shows how they are connected to the political and business worlds and what influence this has caused upon them. The media is often referred to as the fourth pillar of democracy which separates the grain from the chaff for the common masses in order so that they can conceive in their opinions and participate in the democratic process of debate but when the media which is the ultimate information source is bent then it results in serious ramifications adversely affecting the democratic setup of the nation. This paper elucidates that how the control mechanism in the hands of a few individuals from the upper echelons of the society blur the public perception

* Student, III Year, B.A.LL.B. (Hons.), Amity Law School, Amity Univ., Noida.

** Student, III Year, B.A.LL.B. (Hons.), Amity Law School, Amity Univ., Noida.

and promote misconception. The research also seeks to understand the trends in cross media ownership and its corollaries. Showcasing the hazards of such trends in a democratic country the paper establishes the need for a statutory regulatory mechanism which is requisite in order to curb the menace of this evil. The paper also suggests ways by which the concerned authorities can exercise their powers within the law in order to put in place and regulate this extremely significant sector of an intrinsically democratic nation like India without hampering its functioning and also without violating the fundamental right of free speech.

1. INTRODUCTION

In the past decades the influence and growth of media as a whole have seen rapid strides and in the recent scenario media constitutes to be an important aspect of the functioning of our country. The electronic habitat of the country has developed beyond imagination with the media landscape growing from a few state-owned channels run by Doordarshan to the emergence and introduction of foreign-owned channels and joint ventures like Star and NDTV which shows the ever growing influence media exhibits in the Indian sphere. It can also be seen by the fact that the Indian media industry is estimated at about a whopping Rs. 1052 billion with its value on the rise every single day. Owing to its wide spread influence a reasonable question arises that is, who owns the electronic and information media of our country? The question the easier it seems is rather a difficult one to answer. In India, the control of many media organizations basically resides in the hands of various bodies such as corporations, corporate bodies, and

many individuals. But a detailed investigation and analysis of these organizations is rather a difficult task since most of the information available about these bodies is either incomplete or dispersed. Nonetheless few conclusions from the available insufficient information can still be drawn which are as follows:

1. The Indian media sphere is oligopolistic in nature since a few big players acquire a dominant position and shape the industry's character owing to their large influence which they possess over it.
2. The dominance of the few big players can be observed in both a vertical range (across different Media) and a horizontal range (across a particular region) due to the absence of strict rules and regulations on cross media ownership.
3. In the recent scenario, there also have been seen portions of the media in India being controlled by political parties and a number of influential people associated with such political parties.
4. It has also been seen that along with having an interest in the media outlets, media group's backers and controllers occupy interests in various other diverse businesses too and often put to use the profits derived from their media businesses activities to their other diverse businesses. The profits not only accrue in monetary terms but also in the way of improved brand rapport, increased presence in the media, increase in customer base by rigorously promoted advertisements, easy promotion of new schemes and projects.

Over the years the global media industry has seen various mergers between various media houses which have caused a drop in the heterogeneity level and diversity in the media market across the globe. This phenomenon can be seen as the impact of the growing consolidation of the media entities across the globe especially those in the developed countries. But it is to be noted that there lies a huge contrast between the Indian media market and those of developed countries. For instance, India hasn't achieved the status of a developed nation and is still in the phase of development and thus various sections and divisions of the Indian media industry are still in the phase of development, unlike developed countries where the media industry has fully achieved its potential. Owing to the sheer magnitude of the plurality which exists in a nation like India, which boasts of multiple languages, different cultures, religions, multiparty political system, an economy for diverse businesses, the Indian media remains highly disunited and divided. This, in the present context means that the media as an industry is highly segregated on the basis of the above mentioned factors and most significantly on the basis of their political allegiances and business interests. The sense of unity in Indian media is lost and there exists serious acrimony between media groups, which in turn affects their manner of functioning and showcasing of information.

Over the years there has been observed a rapid expansion in the number of radio stations, television channels, internet websites and various publications which have provided nothing but plurality and an array of choices to the Indian consumers. As per the data available with the

government, a total of 1, 05,443 newspapers/periodicals are registered with the registrar of newspapers as on Mar. 31, 2015 along with a more than 1000 diverse radio stations. Also, after the allowance of Ministry of Information & Broadcasting, India currently boasts of a total of more than 850 television channels including 350 news and current affairs channels.¹ But despite these staggering and huge numbers of various forms of mass communication there are not more than a hundred big groups and corporations which own the Indian media market and their influence over it is ever growing which can be seen by the fact that they continue to directly influence what is read, heard and watched by the general masses. All this has thus led to the ever growing need of certain forms of checks and limitations on control and ownership of various media outlets. But in the recent times the attitude shown by various dominant media corporations and groups towards the need for restrictions and control over ownership is not satisfying and far from desired. We have witnessed an unwillingness and dissent on the part of the established media conglomerates since they contend that a regulation and control over the ownership would result in a deceitful, immoral and an ambiguous framework of censorship. They have also received the much needed support from the government on their desired notion since there exists a dual dependence between them as political leaders need media groups support as much as media groups need political leaders.

¹ Registrar of Newspapers for India, *Press in India*, RNI, http://rni.nic.in/pin2014_15/pin-contents.pdf.

A few years ago, a detailed account in form of a report urging the implementation of the concept of cross media ownership and imposition of various restrictions was brought into Indian public domain. The report was prepared and submitted by an autonomous organization following a censure by a council of legislators. The report which consisted of almost 200 pages was formulated by the Administrative Staff College of India (ASCI) on inducement of Ministry of Information and Broadcasting. The report though being advanced and submitted to the Ministry in July 2009 didn't find a place on the Ministry's website and was subsequently neglected. This move by the Ministry was heavily criticized by the Parliament's standing committee on information technology which termed the Ministry's behaviour as of a neglecting nature and ultimately condemning the Ministry's actions of not taking and instituting any measures on the suggestions made by the ASCI.

1.1. MARKET DOMINANCE

The ASCI in its report carefully scrutinized the Indian media market and its ownership regime and rightfully indicated how the Indian media market is under the influence of certain big market players who possess considerable dominance in the Indian setting and thus contended in favour of an well-established structure and skeleton for implementing restrictions on cross media ownership, chiefly in media markets of territorial nature since regional markets involve notable centring of market dominance unlike markets at a regional levels.

But despite ASCI's strong investigation on the concerned matter and subsequent beneficial recommendations made by it for implementation of a well-established regulatory framework, it received a shunning attitude from the government which ultimately lead to the refusal and non acceptance of the said recommendations. This neglecting attitude could also be witnessed by government's act of hurling the disputable issue before the Telecom Regulatory Authority of India's (hereinafter referred as 'TRAI') court for deciding and adjudicating the said matter.

The Parliament's standing committee which was presided by Congress MP Rao Inderjit Singh placed a strong emphasis on the fact that the matter of imposition of control over cross media ownership is of crucial significance and thus requires immediate scrutinization before it goes on to become a viable menace for our parliamentary structure. The committee also asked the Ministry to formulate its perspective and position on the concerned matter in collaboration with the TRAI with a keen emphasis on the various international practices and general notion on media ownership observed across the world.²

In Feb., 2009 the TRAI came out with its report in which it strongly asserted on the fact that limitations should be imposed on the three footings of Indian media which are radio, television and print since protection of diversity and multiplicity of these footing is necessary. But these ideas of implementation of reforms in media industry by the government were

² MINISTRY OF INFO. & BROAD., 47TH REP. OF THE STANDING COMM. OF INFO. TECH. ON ISSUES RELATED TO PAID NEWS, *available at* <https://keralamediaacademy.org/wp-content/uploads/2015/02/Media-lok-sabha-report.pdf> (last accessed Aug. 27, 2018)

strongly rejected by the prominent media houses that showed great resistance to the said idea. Among various contentions and reasoning presented by them they mainly emphasized on the fact that such regulations and restrictions in their sector would prove to be a roadblock and would hinder and impede the rate of growth of their sector and the nation overall along with stressing on the fact that implementation of restrictions and rules would violate their constitutional right of freedom of speech to a great extent. Furthermore, it was also asserted by print houses and groups specifically those related to newspapers and publishing houses that TRAI lacked the required jurisdiction and thus was not in a position to make suggestions in matters which specifically did not deal with telecommunication and thus TRAI should not have been allowed to make such recommendations. All the arguments advanced on behalf of the various media houses were carefully considered by the TRAI which in its deduction opined to the fact that restrictions in the Indian media sphere over the concept of regulation of ownerships is the need of the hour and should be given the due importance so that their implementation could be done at the earliest. The T.R.A.I. also stated how Indian media market should be run in accordance with the general principles and practices as observed and followed in the developed nations since media holds a significant position in a nation's affairs.

The T.R.A.I. in its conclusion also insisted on the fact on how constraints on vertical integration are greatly desired since vertical integration in the Indian media market directly results into and promotes

behaviour of anti-competitive nature through which a distributor enjoys a dominating position in which he may prejudice his/her own broadcaster's material against the content of his/her rival broadcaster. This sort of situation and behaviour is undesirable in any scenario since it would result in a setting which would give undue advantage to large big aggregate players in the media market giving them the Liberty to force and thrust their favoured content, a situation characterized as hazardous by many.

Regardless of the strong opposition and confrontation on part of the media houses owners a widespread frequent occurrence of a range of Immoral and unlawful activities made the need for a robust, well laid out and a viable regulating framework and rules much desired since the lack of a regulatory framework has made the matters worse has made the matters worse and almost injurious. Due to such a series of events one stands on a confusing notion since one finds it difficult to ascertain the fact that of whether the various news and publications as formulated all over the country include the much desired element of fairness, whether the various media houses situated all over the country follow the prescribed moral trade regulations or not or whether any drive initiated by any media brand in opposition to any step or decision taken by the government is aided or assisted by any pro communal section of the society.

Though the concept of cross media ownership is seen as an ever growing threat by the government, the media industry itself plunges in between the fact of whether to term this growing phenomenon as a boon or a bane. The first line of defence which the media industry and the business

community take when confronted with this question is that of their fundamental right to carry on any trade and profession but no fundamental right is unrestricted in its practice and reasonable restrictions can be placed on them according to Article 19 (1)(6) and while, Article 19(1)(a) of the Constitution of India guarantees a right to “freedom of speech and expression” it also guarantees the people of India the “right to know”³, which in the present context can be interpreted as credible news and information . In a democracy, transparency can only be ensured when the people get to see behind the veils of secrecy and there is no adulteration in the commodity called “Information” in which the media groups these days trade.

Avijit Deb, Solicitor and Legal Adviser to the ABP Group has remarked, “Media has grown over a period of time in the hands of some families. The only thing one has to do is to go to the Registrar of Newspapers for India and apply for a title, and once the title is approved, one can go ahead and print it.”⁴

Pulak Bagchi, Vice President, Legal and Authority, STAR India remarked, “When we look at media there are a few factors to it. These are content, pipeline and investment. For enabling differentiation for media as a whole, we need to recognise and synergise between these three variables. From an economic point of view, India has been regulated to some extent.”⁵

³ P.U.C.L. v. Union of India, (2003) 4 S.C.C. 399.

⁴ Abid Hassan, *Industry Divided on Cross Media Ownership*, EXCHANGE4MEDIA, http://www.exchange4media.com/others/industry-divided-on-cross-media-ownership_50159.html.

⁵ *Id.*

According to Annurag Batra, Chairman and Editor-in-Chief, Exchange4media Group, the industry has seen convergence in terms of technology, advertisement and entertainment. “It is happening all the way and one need not worry about ‘cartelisation’ of Indian media.”⁶ Commenting on the consultation paper on cross media ownership released by the Telecom Regulatory Authority of India (TRAI), he said, “It is very theoretical. How will you pull back the ownership of companies? It won’t work.”⁷

But it has been widely seen that cross media ownership results in a series of disadvantages especially to public and masses in general since the news and its contents which we read and watch on a daily basis goes through a process of filtration by the media houses in order to satisfy the interests of their various controllers since nearly all media groups come under the ownership of powerful political parties who carefully oversee and supervise the various news and content that gets dispersed by the media houses. In April ,2011 when 4 states (namely West Bengal, Assam, Kerala, Tamil Nadu) and one Union Territory (namely Puducherry) were going to polls in India , the Election Commission of India had to issue over 200 notices for stopping political parties from planting campaigns in the garb of news. Gujarat witnessed 414 cases of paid news during the 2012 elections. The Election Commission still struggles with this problem.⁸

⁶ *Id.*

⁷ *Id.*

⁸ Anubhoti Vishnoi, *Paid News Sets Alarm Bells Ringing in Gujarat Again, EC Probing 400 Cases*, THE PRINT (Dec. 6, 2017), theprint.in/politics/gujarat-election-2017/paid-news-gujarat-ec-probing (last accessed Aug. 27, 2018).

In India, the ownership of media groups and houses has traditionally been seen in the hands of certain political parties who have enjoyed significant control over them since their inception apart from being owned by wealthy conglomerates and business groups. Following are the famous examples such ownership regimes as observed in the Indian media market.

The Deccan Chronicle, for instance, has T Venkataraman Reddy as its chairman who is the son of the late Congress MP T Chandrasekhar, and nephew of Congress MP T Subbirami Reddy. Hindustan Times which has forayed into the digital sector apart from a few others has Shobhana Bhartia as the Chairperson and editorial director who is again the daughter of Industrialist KK Birla. The director, Shamit Bhartia, is the husband of Nayantari Kothari, who is a niece of Mukesh and Anil Ambani, CEO of Reliance Industries Limited and Chairman of Anil Dhirubai Ambani Group respectively. Zee News, is a wholly owned subsidiary of Essel Corporate Resources Private Limited, has its shares divided among a wide number of business firms, corporate conglomerates, and individual stakeholders.

These are just some of the facts and figures that come up in the big picture.

Apart from this there is also the factor of chain ownership operating, where the conglomerates hold most of the print and publishing business. For instance, newspapers like the groups headed by the Times of India, Ananda Bazar Patrika, The Statesman, Indian Express, Telegraph and Hindustan Times are such cases. Subhas Chandra who is the Promoter of

the Essel Group is the brother of Laxmi Narayan Goel, the Chairman of Suncity Project Limited and the father of Punit Goenka, the MD of Zee Entertainment Enterprise Ltd. (according to 2012). He also holds a Rajya Sabha ticket from the BJP.⁹ There may not be anything wrong or illegal about the ownership pattern but it certainly raises the possibility of a conflict of interest situation. As far as instance of malice is concerned, it is a widely known fact about Zee media group that they have been accused of being involved in the Naveen Jindal (was a Member of Parliament from the Congress) blackmailing case for which the channel is facing a defamation suit and its senior editors were jailed on extortion charges.

But to say in a nutshell such trends in ownerships and control of media houses can never be encouraged since they ultimately lead to the reduction in the level of plurality, diversity, and multiplicity in the Indian media market since it would prove to be unhealthy and injurious to the general public and the nation as a whole.

Cross media ownership is an emerging threat to the Indian democracy, in a nation like India where the media plays a significant role in exercising democratic rights like freedom of speech and expression the seeping in of such evils makes such rights vulnerable to abuse and misuse in the garb of the exercise of fundamental rights. The most significant reason which contributes towards its growth is the lack of regulation by any statutory body , the Indian government still desires to make up for the loss

⁹ Sanjukta Das Bhowmick, *Hypocritical Media Houses*, ED TIMES, <http://edtimes.in/2017/05/dear-media-houses-when-you-owned-political-partiescorporates-you-cant-be-hypocritical-cry-foul/>.

of reputation which it had to suffer during the emergency era when there was heavy censorship imposed on the media in a dictatorial manner, in addition to this the media guilds have also been vociferous in their opposition to the government for the creation of any regulatory authority which oversees the operation and the conduct of media houses in India. The lack of a regulatory framework not only allows private players to manipulate the media industry but also to manufacture content which proves to be conducive to their interests. The fourth pillar of democracy today stands vitiated as commercial interests have been dissolved in the practice of journalism. Media not only plays the role of disseminating information and informing the masses but also plays the role of a watchdog of democracy, it keeps the political class of the country at check by following public figures like their shadows and keeping them accountable for answers, explanations and by demanding transparency in their conduct as public servants, the same applies to the business world but how will such democratic goals be achieved when the media which has to hold them accountable will be controlled by such individuals themselves. The emphasis needs to be laid on the fact that there is only a need for regulation and not for censorship; regulation and censorship are two entirely different aspects.

The notion of cross media ownership is widespread and evident with the fact that today the media industry is an oligopolistic market which means only few corporations control several media organizations and enjoy their majority stake in them by exercising power and influence over the

content which the media projects out. Cross media ownership has existed in India since independence when the most prevalent form of media which was the print media even had several conglomerates exercising ownership rights over it. Earlier only conglomerates engaged in heavy and mainstream industries were investors in media houses but today it seems as if the media industry has opened up a membership for money throwers as businesses of diverse backgrounds are inter mingling with media houses by either setting up their own channels or their press houses. The absence of a regulatory authority for the media has resulted in various media channels and print platforms mushrooming and operating according to their own fancies reporting what they are instructed to report or print what they are directed to print. Column spaces in newspapers are up for sales and space is not allotted to an important issue but is reserved for the individual who pays the price for that space. The Information and the Broadcasting Ministry of India only has a limited role which only lasts up to the process of providing licenses. Groups from the political and business arenas generally control media houses in our country which significantly raises the vexed question of conflict of interest.

There are myriad examples to prove the above as for instance if we observe the scenario in South India we can find that all the major political juggernauts have their own media fronts with M. Karunanidhi (The supremo of the Dravida Munnetra Kazhgam) owning the Kalaignar TV, his

nephew Kalanithi Maran owning Sun TV, ¹⁰ the recently deceased AIADMK (All India Dravida Munnetra Kazhagam) chief J. Jayalalitha owned Jaya TV, actor turned politician Vijay kanth (Desiya Murpokku Dravida Kazhagam) owns the Captain TV through his brother in law. The South Indian arm of the congress party controls Megha TV, Basanth TV, Jaggan Reddy owning the Sakshi TV and Sakshi newspaper, the son of N. Chandrababhu Naidu the present Chief Minister of Andhra Pradesh owns the Studio N. As far as the business world is concerned noteworthy names from this sphere too are also key players in participating in the process of Cross Media Ownership the most prominent example being Anil Ambani's Reliance Group which has majority shareholding in Network 18 which further owns CNN – IBN, IBN 7 and CNBC TV 18, the TV Today group headed by media mogul Aroon Purie owns channels as famous as AajTak, Headlines Today and India Today. The presence as well as the popularity of electronic media in India has quadrupled in the past three decades due to which every media house has been able to generate heavy profits and like any wise financial entity they have invested their proceeds into diverse fields such as education, oil, textiles etc.

The Bennet Coleman group (BCCL) also known as the Times Group has recently launched its own educational front in the form of a private university namely, “The Bennett University” offering technical education.

¹⁰ *ASCI Cross Media Ownership in India Report*, ADMINISTRATIVE STAFF COLLEGE OF INDIA, http://cablequest.org/pdfs/i_b/ASCI%20Cross%20Media%20ownership%20in%20India%202009.pdf.

Even the controlling stake in today's media houses lies not in the hand of journalists or editors but professionals from other fields as for an instance the board of directors of all famous media companies include people from giant corporations like the board of directors of the Jagran Publications has had Kishore Biyani (Head of the Future Group, former Managing Director Pantaloon Retail) , Mcdonald's India MD Vikram Bakshi , chairman of real estate firm JLL(Jones Lang LaSalle) Meghraj, Anuj Puri. The board of directors of DB Corp the group which manages Dainik Bhaskar has had head of Piramal enterprises group Ajay Piramal, the MD of Warburg Pincus, Nitin Malhan, NDTV's board of directors has included Pramod Bhasin President and CEO of country's biggest BPO company GenPact¹¹.

Media conglomerates seem to have professionals from every field on their boards except famous and prominent journalists. The above facts seem to suggest that in order to fetch sponsorships and financial support it is imperative for the media houses to join hands with mainstream business groups, although it may seem to be a normal affair but often, it is the business group which has the final say in the content which gets broadcasted or published. For an instance, print media like newspapers and magazines have turned into more of an advertisement pamphlets rather than a source of credible information. Paid coverage is an emerging phenomenon, which is used extensively by political parties and business houses. With no regulating body in place in order to oversee or assess such ownership

¹¹ DILIP MANDAL & R. ANURADHA, MEDIA ETHICS (Oxford University Press, 2011).

patterns this trend has been in place since India has emerged as an independent nation with free media.

On May 19, 2012 the Aditya Birla Group announced that it has acquired a 27.5% stake in Living Media India Limited, a company which is headed by Aroon Purie which is the holding company for and has 57.46% stake in TV Today Network. On Dec. 21, 2012 Oswal chemical and Fertilizers acquired a 14.17% stake in New Delhi Television (NDTV). The Network 18 Group has financial arrangements with Mukesh Ambani led Reliance Industries Limited (RIL).¹²

The deep rooted nexus between the politicians and businessmen was known to the masses since a long time but the astounding fact that the media and journalists were also a part of this power mongering process came as a shock to the people especially after the leaking of the Nira Radia tapes when the income tax department tapped the phone conversations of a well-known lobbyist in the power circles of Delhi, her conversation with politicians and many prominent journalists and TV presenters brought out the cold reality that how deals which concern the national interest are brokered by such powerful and extensively connected people.

Such instances proved that even the fourth pillar of democracy had elements which were open to venality by their crony corporate bosses or masters. But even more bewildering is the fact that this is still going

¹² Pranjoy Guha Thakurta, *Media Ownership in India - An Overview*, THE HOOT (June 30, 2012), <http://www.thehoot.org/resources/media-ownership/media-ownership-in-india-an-overview-6048>.

unchecked by the government and no measures are being put in place in order to preserve the independence of media houses.

The Ministry of Information and Broadcasting requested an independent and autonomous institution the Administrative Staff College of India to conduct a research on cross media ownership in India and the institute came out with a report with some conspicuous observations which clearly suggested that cross media ownership is glaringly present in India despite this the government has not made any significant stride in order to at least bring out some remedial measures to curb this evil which seems to be mounting in the democratic space of our country. The media fraternity has always been apprehensive of any measure by the government in order to interfere within their functioning and even a slight move by the government is seen as an attempt to suppress freedom of speech. Emphasis needs to be laid on the fact that “regulation” and “censorship” are two different concepts and it needs to be understood that in a democracy everyone is accountable even the institutions which hold the democratic setup together.

In developed nations like United Kingdom, United States of America and Canada the media community has opposed governmental restrictions on Cross media ownership but the government has still put in place restraints on cross media ownership similarly in India too this trend of one corporation owning many media outlets needs to be regulated in order to preserve the independence and freedom of the mainstream media. An effective regulatory mechanism needs to be put in place in order to

ensure that media ownership does not affect the dissemination of information by the media houses or press. Although, regulatory bodies such as the News Broadcasting Standards Authority and The Press Council of India which is a statutory body have been in place since quite some time but it seems that their functioning and regulation of the media industry has not brought about much change in trend of media ownership and regulation of controlling power of business groups in the media houses.

2. PAID NEWS AS A COROLLARY OF CROSS MEDIA OWNERSHIP

When discussing cross media ownership the contentious issue of paid news cannot be ignored, it cannot be seen as some new phenomenon which has emerged in the new day and age but it has always been the very weapon which has been used by the powerful and the rich to create perceptions of them among the masses. The practice of paid news has been in existence since the time when private media began to emerge within India and it was only when the awareness among the masses increased that they realized that it is an evil in the world of journalism which violates their right to get true and correct information which they are entitled to.

The evil of paid news can be compared to the act of adulteration in food as it also involves spiking of information with material which turns out to be beneficial for the party which has paid the presenter of such information while it is always detrimental to the people who are at the receiving end of such information which is laced with propaganda. Paid news in the modern day can be defined as the act of bribing the mainstream media with favors generally by politicians, businessmen and public figures

in order to project them in such a way which improves their image in the eyes of the larger public of the country. It can also be called as Sponsored Journalism. Paid news is prevalent specifically in the political and financial world of business, it is well known that public perception is the key in both politics as well as in commercial business and without a rapport with the masses neither a politician nor the businessman can survive or thrive. Face value and public relations today outperform credibility and every other aspect in politics for a politician and who else can improve it except the media therefore the collusion between politicians and media houses is not a strange affair as it is the media which today makes or breaks the political career of an aspiring politician by projecting him and his activities.

Every major political party has a public relation office (also known as the PR team) which deals with media relations and interactions. Similarly, in the corporate world every major commercial business constitutes its PR team in order to build a sway of the corporation with the media. No share of a corporation listed either on the BSE (Bombay Stock Exchange) or the NSE (National Stock Exchange) can be bought without a thorough research about the corporation and today dedicated media outlets such as financial news channels and financial news journals exist in order to assist individuals in buying the stock or share of a particular corporation. Both the established as well as the new entrants in media industry are offering either newspaper space or footage on channel to the politicians, the established organizations are raking in huge profits probably that is why the presence of electronic media has been ever expansive in India. The Election

Commission of India (EC) has declared paid news as an electoral offence and in the past it has even reprimanded many politicians for being involved in such an activity which spreads misconception and blurs the perception of the voting population.

The former Chief Minister of Maharashtra Ashok Chavan was admonished by the Election Commission when allegations were made against him for paying media outlets in order to provide him with exclusive coverage during the elections and for not proving the opposite in his financial statement provided to the election commission¹³. Not only the above case there have been myriad instances where the EC has disqualified several candidates from contesting elections for the offence of influencing their public images for electoral gains through media outlets. The manifestation of paid news in the financial world is also prevalent in the form of various broadcasting channels which are solely dedicated for broadcasting news from the financial and stock markets but many of them do not practice honest reportage as many of the outlets have their allegiances to their parent holding company which is some or the other significant name in the financial sphere this fact was corroborated when in July 2010 the Ministry of Corporate Affairs came out with directive report named “A Beginners guide to the Capital Markets” wherein it cautioned the investors to beware of the electronic media especially relating to the stock

¹³ Lyla Bavadam, *Paid News’ Notice to Ashok Chavan*, FRONTLINE, <http://www.frontline.in/the-nation/paid-news-notice-to-ashok-chavan/article6237471.ece>.

specific advice as that advice may have vested interests which may not be beneficial to the investors as it appears to be¹⁴.

The print media is especially affected by this epidemic of paid news and the space in a newspaper is up for sale and specifically the editorial space. The main problem appears to be that the both the print and the electronic broadcasting media have forgot the line between advertisement and news and there appears to be a transgression taking place when it comes to such issues. Therefore, it is quite evident that the epidemic of paid news is omnipotent and is pandemic across all the major media groups. No media house can sustain without profits therefore they become open for investments and favors in exchange for their coverage and content for the one investing and providing the funds. The scenario is so distressing that today some media behemoths today have made it mandatory for its editors to get paid for the coverage which a particular newspaper or channel provides to some politician or a celebrity. The election season happens to be the time when all the media outlets whether of local presence or that of Pan India are the most opportune to cash in huge profits by giving out packages to politicians according to their paying capacity, these packages happen to be coverage packages which range according to their prices.¹⁵

From this, it can be concluded that Paid news is a corollary of Cross media holding patterns and the ownership of a media house definitely

¹⁴ THE INST. OF CO. SEC'YS OF INDIA, MANTRA 10, A BEGINNER'S GUIDE TO THE CAPITAL MARKET 5 (July, 2010).

¹⁵ P. Sainath, *The Medium, Message and the Money*, THE HINDU, <http://www.thehindu.com/opinion/columns/sainath/The-medium-message-and-the-money/article13666073.ece> October 26, 2009.

affects its manner of functioning, the style within which it propagates information and projects it.

3. REGULATORY BODIES

The standing committee of the parliament on Information and technology (IT) was formed under Mr. Rao Inderjeet Singh a member of parliament from the Congress party which gave out specific recommendations for the creation of a dedicated statutory regulatory authority for the media industry in order to bring in restrictions on cross media ownership and holding patterns and which oversees the commercial activities which transpire in this sector especially those relating to mergers and acquisitions of media enterprises. Although various legislations are in place for the regulation of the media industry, for instance, the Broadcasting Act 1990, Media Ownership Act (Local radio and appointed news provider) order 2003, while for mergers and acquisitions provisions have been enumerated in the Enterprise Act, 2002. Mergers within the media sectors are also subject to the Competition law test under section 22 and section 33 of the Enterprise Act 2002.¹⁶ The only drawback which these statutes have is that they are scattered into different legislations and due to this their implementation becomes cumbersome, moreover no adjudicatory authority exists which can entertain disputes relating to the media industry, although

¹⁶ *ASCI Cross Media Ownership in India Report 2009*, ADMINISTRATIVE STAFF COLLEGE OF INDIA, http://cablequest.org/pdfs/i_b/ASCI%20Cross%20Media%20ownership%20in%20India%202009.pdf.

the Telecom Regulatory Authority Of India (TRAI) not only inspects the telecommunications sector but the broadcasting sector and cable television too but it would function more efficiently in the matters of modulating and regulating the sector if the government extends its jurisdiction to the economic arena of this industry specifically the accumulation of the controlling interest¹⁷.The presence of a specific tribunal for adjudicating media industry related disputes is the most important pre requisite in order to regulate the media sector. The Competition Commission of India can be taken up as a role model and based on the principles on which it operates and regulates anticompetitive agreements in the market this centralized media tribunal can also oversee amalgamations and mergers or the setup of new media channels or print stations and their subsequent conduct within the media market. It shall also aim to prevent the congestion of media outlets which is currently increasing specifically in the broadcasting sector.

4. CONCLUSION

Just like any other valuable material information can also be construed as an intellectually enriching “commodity” being delivered as a product to the consumers therefore the media which dispenses this function of information delivery shall be kept under check and regulation like any other trader of a commodity is kept. The Fundamental Rights guaranteed within the Constitution of India assume supreme importance above every legislation and law in this country therefore the protection and preservation

¹⁷ *Id.*

of them is the sole duty of not only the judiciary but also the parliament. Therefore, the Right to Information and specifically the Right to correct and true information is a fundamental right which emanates from Article 19(1) (a) of the Constitution. When people have information then only they would be able to form opinions this is the very essence of a democratic setup, regulation of information mediums needs to be there so that such information channels are not concentrated and blocked. There shall exist a plurality of views within a nation which promotes diversity of opinion which is the very basis of Indian democracy and the fourth pillar of democracy which is the mass media shall contribute towards it only by enriching people with knowledge of their nation.