RISK OF HORIZONTAL OLIGOPOLIES IN THE INDIAN MEDIA LANDSCAPE

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ABSTRACT

This paper addresses the growing problem of media oligopolies in the Indian media landscape, which leads to the concentration of media ownership in India. It outlines the challenges posed by horizontal integration by corporations, leading to corporate control over the Indian media. The paper will also evaluate the current legal framework in India, the functioning of regulatory bodies, and the system's overall effectiveness, and use an analytical method of research to identify its shortcomings.

The concentration of media and its ownership leads to a lack of media pluralism, which is essential for any working democracy. The media is often referred to as the fourth pillar of a democracy, but this term seems to be a far-reaching one without media pluralism allowed in an effective manner. This lack of media pluralism can be highlighted by looking at multiple examples of how horizontal integration affects it.

There have been certain legal changes over time, but these have not addressed the risks of uncontrolled horizontal integration in the media world. Through the critical analysis, this research aims to understand how this scenario can be addressed with a progressive outlook that supports and fuels a more competitive environment.

INTRODUCTION

The Indian media is a combination of print, radio, television, and even newer platforms like OTT (or Over-The-Top) platforms like SonyLIV and JioHotstar. This vast and ever-evolving media landscape in India is faced with continuous challenges, and one such challenge in the past 20-30 years is the practice of horizontal integration by corporations.

Horizontal Integration is becoming more common in the Indian media business by the day, the most recent example being the merger between Viacom18 (a Reliance entity) and Disney Star[1]. But before we start analysing how this leverages media plurality, let us begin with a preliminary question: what is horizontal integration?

Horizontal integration, like the many strategies used by businesses to grow their reach and expand, is an acceptable and common business-growth strategy. So then, where is the issue? Well, in vertical integration, corporations take over or merge with other corporations that are at different levels of the supply chain (For example, a manufacturing corporation merges with a distribution chain for smoother functioning). But this is not the case when it comes to horizontal integration: Here, companies acquire or merge with other companies that are not just a part of the same industry but also stand at the same level of the supply chain. A significant and largely successful example of this is Tata Motors' acquisition of the British luxury brand, Jaguar Land Rover. [2]

This type of integration, especially in the media business, however, can have massive repercussions: By eliminating key competitors, corporations are successful in getting away with higher market prices than before, and less

[1] A. Gupta and S. Saini, "Disney-RIL Merger: The Power of Consolidation and the Risk of Monopoly", *Exchange4Media,* 29/08/24

[2] D. Luther, "How Does Horizontal Integration Work? Pros, Cons and Examples", *Oracle Netsuite,* 12/05/23

innovation. This eventually leads to a situation wherein the consumers have less number of choices in the same industry, which raises serious issues concerning corporate control over media outlets. [3]

Such mergers and acquisitions that go against the spirit of competition have grave implications not just on the market and its competitors, but also in general on the consumers; in fact, it is argued that the consumers get affected the most by unhealthy mergers and acquisitions, as they have to compromise on not just the quality of goods and services, but also the prices they are forced to pay in less competitive markets.

But this is not all: the broader implication is much more dangerous, which is the homogenisation of content. In such a scenario, a few entities dominate public discourse, and critical or alternative perspectives and systematically marginalised. So it can be argued that media consolidation allows the powerful entities to shape publicly available information as per their wishes.

This concentration can also affect the diversity in opinion that every individual is entitled to: the information made public may reflect the personal or professional interests of the owners. Consequently, the media's role as an independent watchdog and a platform for diverse voices is compromised, undermining the democratic principle of a free and pluralistic press.[4]

1. LACK OF LEGAL REGULATIONS

In cases of horizontal integration affecting the diversity of opinion, in an ideal legal environment, regulatory authorities are expected to step in and ensure that horizontal integration does not affect the decision-making powers of the

[3] " Horizontal mergers explained: Benefits, risks, and strategic insights", *MNA Community,* 21/01/25

[4] . Pratap Bhanu Mehta, "Corporatization of Indian Media: A Democratic Deficit?", *12 J. Media Studies* 56, 60 (2019)

people, as well as create a non-competitive market.[5] In India, the Competition Commission of India (hereinafter referred to as the 'CCI') has been established vide the Competition Act, 2002.[6] It prevents anti-competitive agreements, abuse of dominant position, and regulates mergers and acquisitions to ensure they don't harm market competition. The CCI also has been empowered to inquire, promote consumer interests, and spread awareness about competition practices.[7] Under the Act, the CCI is the authority in charge of reviewing and regulating horizontal combinations like mergers and acquisitions.[8] This makes the CCI relevant to the current discussion of horizontal integration affecting market dynamics.

The CCI is ideally the authority that needs to have a stringent outlook on approving horizontal integration, especially if the said integration poses a risk to the competition present in a certain area or domain of business. There have been many cases in the past where the CCI has demonstrated its powers of scrutiny in the interest of the public and competitive interests of the Indian market.

But in practice, certain mergers and acquisitions have been argued to have been given the green light by the CCI without adequate scrutiny, and this is becoming a common practice in the new age of media powerhouses. This problem can further be highlighted by CCI's recent approval of the Reliance-Disney merger, subject to certain recommendations, which could have serious implications for sports broadcasting competition.[9] This paper will address this scenario when we discuss the major media oligopolies already developing in India, and how this affects the market competition drastically.

[5] Id
[6] Section 7, Competition Act of 2002
[7] Sections 18-40, Competition Act of 2002
[8] Sections 5 and 6, Competition Act of 2002
[9] S. Ajjampur, " CCI Approves Reliance-Disney Merger in $8.5Bn deal", *TheArc,* 27/08/2

But the CCI is not the only empowered authority in this context that lacks an understanding of the risks of horizontal integration. For example, if solely the telecommunications sector is highlighted, the Telecom Regulatory Authority of India (hereinafter referred to as the 'TRAI') has been set up.[10] The TRAI has provided recommendations [11] addressing media ownership, which even addresses new-age issues like vertical integration by media companies. However, these recommendations fail to address horizontal integration, being silent on the topic altogether even in the said recommendations put forth by it.

The trajectory is similar when it comes to television regulation in India: The Cable TV Networks (Regulation) Act 1995 was passed to address a growing need for regulatory oversight of content, licensing, and basic transmission norms. However, there are no provisions requiring disclosure of consolidation of ownership, or any frameworks to assess the potential impact of media consolidation on media plurality.

In India, there has been research addressing the issue of horizontal integration. These researchers have advocated for a comprehensive framework for disclosure norms for media ownership, along with a mechanism for enforcing the said disclosure norms. [12]

Consequently, we can say that legal regulations in India do not adequately address the problem of horizontal integration, leading to a situation wherein media corporations can easily take advantage of this legal lacuna for their benefit. Due to the lack of legal regulations on the same, enforcement of rights

[10] Section 3(1) of TRAI Act 1997
[11] THE TRAI RECOMMENDATIONS ON MEDIA OWNERSHIP (https://www.trai.gov.in/sites/default/files/2024-09/Recommendations_on_Media_Ownership.pdf)
[12] S. Kumar, "Five Reasons why Media Monopolies Flourish in India", *Scroll,* 12/01/2015

also becomes an unreachable task for the competitors affected by non-competitive actions of media powerhouses in the media landscape.

2. EFFECTS OF THE LACK OF LEGAL REGULATIONS

2.1. NEGATIVE EFFECT ON MEDIA PLURALISM

The high risks of media concentration affect media pluralism, even in countries that have media-enabling regulations. This pattern has already been seen in countries like Finland, Greece, and Slovakia. [13] India needs to learn from these examples and address the said high risks of media concentration in a few hands.

When a few large entities control these media outlets, the diversity of opinion otherwise protected by the media is drastically reduced. Citizens are also less exposed to different opinions, which may lead to a less informed voter base and a less credible electorate.

2.2.EMERGENCE OF MARKET OLIGOPOLIES

Cambridge Dictionary defines "Oligopoly" as:

"*a situation in which a small number of organizations or companies has control of an area of business, so that others have no share*" [14]

In the context of the market, an oligopoly allows this small group of organisations to manipulate prices, reduce the influence of others, and even compromise on the quality of the information provided by this group to the consumer. These practices affect the media business drastically in a generally

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[13] European Network of National Human Rights Institutions, "Media Freedom and Pluralism", *ENNHRI* (2022)
[14] "Oligopoly", Cambridge Business English Dictionary

competitive market. But in the case of an oligopoly, this is not the case as they are not kept in check by competitive prices or better quality service of information.

As emphasized by this paper, this situation is becoming more prevalent in Indian markets, especially Indian media markets. This issue will be highlighted further when we discuss examples of it in the Indian context.

2.3. IMPACT ON THE CONSUMERS' CHOICES

Less choice for the consumers automatically results in a less vibrant media environment. The narrow and biased information in a media oligopoly will result in a homogenisation of views, which, after a point, is either influential in convincing people to have this narrow view or it creates a sense of anger among the consumers.

The oligopoly also results in higher prices and limited options for consumers.[15] In a media oligopoly, this will create a sense of disinterest among the consumers.

2.4. INCREASED DIFFICULTY IN DETECTING MALPRACTICES

Without explicit caps on market manipulation or the government coming up with detailed regulations, anti-competitive practices will flourish. As pointed out, there is a regulatory lacuna in the current system, and companies are willing to exploit this lacuna at the expense of the market as a whole, as long as the companies are benefiting from it.

Moreover, if control is placed in the hands of only a few entities, it becomes much easier for these companies to perform subtle forms of horizontal control, like the creation of subsidiaries. The CCI, in such a scenario, is not

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[15] "The Impact of Oligopoly Markets on Consumers", *FasterCapital*

well equipped to detect every practice performed by the oligopoly to make the market more anti-competitive than it is.

3. GROWING TREND OF OLIGOPOLIES IN THE INDIAN MEDIA SYSTEM

3.1. THE RELIANCE-DISNEY MERGER: A CAUSE OF CONCERN FOR SPORTS BROADCASTING?

In August 2024, the CCI approved the $8.5 billion merger between Walt Disney and Reliance Industries' media assets. The main issue raised by the CCI was the potential oligopoly that these entities would end up creating in the sports broadcasting business. This concern was valid, considering that in a report for 2023-24, it was found that Disney has a market share of 77.7% in this segment, and Reliance's media division had a market share of 7.5%. [16]

Moreover, the anti-competition risks are even wider considering that Reliance and Disney were close competitors in this field. This left Sony, which had a market share of 8.6% in this segment, in a relatively compromised position, especially in Cricket, the most watched sport in India. [17]

The above-mentioned concerns were raised by the CCI, which eventually approved the deal with voluntary modifications by both parties. These modifications were projected to be the said parties divesting some portions of the newly formed entity, as well as a promise not to indulge in unfair pricing in the spirit of the market. However, experts say that this will not adequately solve the issue of a duopoly in India in the sports broadcasting field,

[16] India Today Business Desk, "Reliance-Disney merger cleared, but what were the key concerns?", *IndiaToday,* 29/08/24
[17] Id

especially in cricket and IPL, which is by far the most revenue-generating league in India. [18]

Reliance has come under public scrutiny multiple times in the past over such antitrust acquisitions or mergers, significantly so when it acquired Network18. Critics fear that the ownership of mass media by big corporations holding significant stakes in different sectors could lead to conflicts of interest because the coverage of media related to their business may be compromised to serve corporate interests instead of the greater public good. [19]

3.2. ADANI GROUP'S HOSTILE TAKEOVER OF NDTV AND THE QUINT

NDTV (New Delhi Television) was the last of India's independent broadcasting companies. In 2022, it was subject to takeover by the Adani Group through its subsidiary AMG Media Networks Limited (AMNL), much to the dismay of the people.[20]

However, this dismay was not limited to the general public: NDTV Reporters started resigning, citing endangered pluralistic public debate and what they called "the end of media pluralism in India".[21]

Practically all the journalists who resigned after this (a significant number) were popular and leading NDTV journalists who spent years at NDTV, some of them present in the company for decades. [22]

[18] Supra at 1

[19] Business Today Desk, "RIL-owned TV18 Broadcast to Merge with Network18, Share Exchange Ratio Announced", *Business Today*, 06/12/23

[20] 5Paisa Research Team, "Decoding Adani Group's Hostile Takeover Bid for NDTV", *5Paisa,* 12/12/22

[21] Reporters Without Borders, "NDTV Takeover Signals End of Pluralism in India's Leading Media", *RSF,* 01/02/23

[22] Id

Yet again, this is an instance of corporate control over media houses. Interestingly, the journalists who helped build the organisation also collectively feel that media pluralism is being affected by such acquisitions.

It is pertinent to note that this is not the only instance of the Adani Group gaining control over media conglomerates. In 2023, the group acquired a 49% stake in another notably anti-establishment news channel, 'The Quint'.[23]

This kind of corporate ownership allows the Adani Group and other corpo rations to use opaque and non-public means to gain control and consequently allows them to compromise media plurality to their business's benefit.

4. THE POLITICAL ANGLE

Many experts, researchers, and citizens allege that Mukesh Ambani and Gautam Adani can use their close relationship to leverage media ownership[24] in India, which allows the government to gain indirect control over news.

The intertwining of politics and corporate giants has its pros and cons: on the one hand, it helps India speed up its goals of becoming an economic superpower, and on the other hand, it risks biased ownership in the media world. [25]

So, which function of the media is affected by this risk? The media plays a very important role: shaping public opinion is one of them, while another is allowing the exercise of power to answer for itself, as well as creating scope for informed debate in a democracy[26].

This paper argues that both of these functions of the fourth pillar of democracy are affected by such concentration of media ownership in a few hands.

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[23] R. Srinivasan, "The corporate takeover of India's media", *360Info,* 03/05/24

[24] J. Sen, "Narendra Modi Is Right, Adani-Ambani Should Be an Important Poll Issue", *TheWire,* 08/05/24

[25] B. Chaubey, "Modi's Political Strategy Explained: Why Drag Adani-Ambani into Politics?", *TICE News,* 10/05/24

[26] Rajdeep Sardesai, "The Role of Media in the Indian Democracy", *5 Int'l J.L.* 23, 25 (2018)

Another significant consequence of the concentration of media ownership is self-censorship.[27] Traditionally, censorship of content has been in the interests of the public as a whole. But with such concentration of ownership, censorship happens according to the whims and fancies of the owners of the media in India; arguably defeating the very goal of censorship.

In the case of Reliance's purchase of Network18, reports also emerged that journalists were asked to hold back reporting on stories that were critical to Reliance or its chairman, Mukesh Ambani. This type of indirect censorship, although less obvious than direct governmental control, still erodes the independence of the press and the public's right to know information. [28]

REGULATORY CHALLENGES AND THE WAY FORWARD

The system of regulation of concentration in media ownership is, as we analysed previously in this paper, not sufficient to contend with issues of controlling concentration.[4]

Reforms that focus on decentralization and promoting diversity in the voices of media should be promoted actively by the government. A way of doing so could be the placement of ownership caps: this will promote competition in India on a large scale, and help the media companies avoid a situation where they are sidelined by oligopolies like in the sports broadcasting industry.

This involves restrictions on shareholding, stronger disclosure requirements by the current owners of media, and independently supervised bodies that monitor compliance with regulatory requirements.

First and foremost, strengthening regulatory oversight is becoming the need of the hour. Regulatory bodies such as the Telecom Regulatory Authority of India (TRAI) and the Competition Commission of India

[27] Supra at 10
[28] Supra at 2

should be empowered to monitor media ownership more effectively, ensuring that no single entity can dominate the media landscape.

Moreover, enhancing transparency within media organizations is vital[29]. Media entities should be required to disclose their ownership structures and any potential conflicts of interest, allowing the public to critically assess the information being presented. This transparency is essential in fostering transparency and overall trust in the media. The current disclosure requirements do not meet their purpose, creating a legal lacuna in this aspect.

CONCLUSION

Media concentration in India, as discussed in this paper, has now taken a turn towards a select few controlling ownership, leading to eventual oligopolies. This ownership is highly detrimental to the voices of the people, with corporate and political interests now preceding the public interest.

This situation goes against the very purpose of why media houses were established: they have traditionally and globally acted as the fourth pillar of each and every working democracy, but such oligopolies allow the media to streamline views and information to the benefit of the owners of the media houses.

Regulatory norms lack in creating a more transparent environment. The lack of disclosures has been highlighted by various studies and experts, but there has been no action on the same by the legislature. Without robust disclosure mechanisms, self-censorship becomes a trend, which is a very subjective concept in the context of the owners, who are the giant media

[29] P. Angela, "Transparency And The New Ethics Of Journalism*", Journalism Practice*. 4. 373-382(2010)

houses themselves in whose hands the media ownership is concentrated at the time.

The media system around the world is said to be organised hierarchically, with all the power and decision-making concentrated at the top, while everyone else's voice in such situations simply ends up as a cry in the wilderness,[30] and India too is becoming prey to this global trend now, as discussed in the paper.

But robust mechanisms for disclosure alone are not the solution: the CCI has been established for the purpose of promoting competitive practices in the Indian market. But there has been no clear mention of the problem of horizontal integration affecting the spirit of competition in any of its circulars or recommendations. Moreover, the CCI's lack of scrutiny has been highlighted by this paper through the multiple instances of oligopolies now developing in India.

Thus, to address the issue of unhealthy horizontal oligopolies in the media landscape of India, India needs to take steps towards stronger disclosure mechanisms, more powers to the CCI and other regulatory authorities like the TRAI, more clarity on horizontal integration and its risks, and creation of sector-specific bodies to address this in the media world, since this is an issue especially highlighted in the media world.

These recommendations need to be adopted by the Indian government to avoid a situation wherein, eventually, only big corporate houses will control all the information and decisions that are taken in the media world.

[30] A. Bhatterjee and A.Agarwal, "Mapping the Power of Major Media Companies in India", *Economic and Political Weekly, Vol. 53, 29, 48-57*(2018)