CHAPTER THREE

Trends in Indian Media and Prospects for Broadcasting Reform

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I. INTRODUCTION

Close to where I live in New Delhi, there is a bridge across the river, surrounded on either side along the dry river bed by shacks made of rough jute cloth and bits of stray wood. The people who live in these shacks ebb and flow with the seasons and the water level of the river, making some sort of a living off the few vegetables they grow in the river soil and sell to the passersby in cars in the slow peak-hour traffic. During the day, you see the haphazard shacks without sewage or running water. In the evenings, driving slowly past, you catch a rare glimpse of a gas lantern, or the well-hidden naked bulbs running on illicit electricity drawn off the bridge’s street-lamp supply. If you are driving past, not standing still, you can also look through the darkness into the shacks at an angle. The right angle takes you past the jute drapes that form the front walls—or curtains, rather. It is peak hour for entertainment programming, not just transpondent traffic. The blue-grey flashes breaking through the darkness—like so many fireflies the color of television—are unmistakable: Doordarshan is showing its popular “film-based” programs again.

The latent demand for media in India is immense. What is true for the shacks around Delhi’s Nizamuddin Bridge across the Yamuna river is also true for the slums around the country and the rural populations as well. In a country where millions of poor people with no sewage, drinking
water, or proper housing use their money to buy not basic infrast;
which the Government claims to be subsidizing—but television
failure of quality supply to match demand is a glaring exam
distortion of markets by the broadcast monopoly. India shou
world’s single biggest market for audiovisual electronic media. Unl
India has a strong tradition of free, market-determined media. It
press—limited in potential only by low literacy rates, though litera
determinant of television use—and a vast software base in the fo
world’s biggest film industry. The only demand constraint appears
plain fact of extreme poverty among a chunk of its population—w
family earns enough to afford a television, especially in semi-ur
there is no choice involved. The latent demand is enormous, as a
set is apparently worth more to its buyers than a decent place to liv

Nor are there large inherent supply constraints. The lack
financing for media has led to some dependence on loans
in the underground, with unfortunate consequences for d
Nevertheless, software production has grown rapidly, keeping j
the increasing demand for programming from Doordarshan:
private satellite channels. There is, at the moment, very little t
for the quality of the media supply, for neither the production v
the content itself have high standards. Given the appalling fall
out by Doordarshan over the years, however, the audience is re
almost anything; as supply choices increase, the audience will
more discriminating and quality will naturally improve.

Unimpaired by both demand for media and the ability to
content, why then is India not the world’s biggest media mar
The reason is as obvious as it is simple—for demand and supply t
form a market, there has to be a medium of exchange. That me
broadcaster itself, has been monopolized by the Government.
Only recently has technological change allowed the creation of al
channels to begin to match the huge unmet demand.

The monopolistic stifling of a media market was ruled un
ational by India’s Supreme Court in 1995. Although article 19(1)
constitutional clause used to justify the verdict, involved the isu
issue of free expression, and specifically not the economic on
natural needs of the market as in article 19(1)(g), the results o
ought to have been—the same. The Government should have m
of the market, or, at most, remained one of its many players.
should have been set in place to encourage the further developme
market—which means, in its present state, the development of
channels, as huge unmet demand already exists. The unstoppable
new distribution technologies should have been welcomed as
improve and increase the media supply, thereby reducing for co
costs and increasing benefits—not least of all competition-driven quality upgrades. In keeping with the judgment’s free expression goals, policy should have been biased in favor of increasing the number of alternative voices—producers as well as distributors of the media supply.

Instead, the proposed policy environment would restrict market development through heavy-handed licensing and niggling restrictions on everything possible. New technologies would be met with blinkers on, either ignoring their potential altogether (as is the case with cable and multimedia services) or requiring extortionate revenue-sharing or licensing arrangements (as with DTH) which only increase the cost to the end-user, rather than decreasing it as new technology should. And under the guise of preventing private oligopolies and an elaborate pretense of concern for “national security” and “national culture,” the policy seeks to reduce the number of alternative voices through cross-media and foreign ownership restrictions. At the same time, it prevents the development of voices from the grass roots, municipal, or even state levels of government, which would arguably put Doordarshan’s huge terrestrial infrastructure to much better use than today’s centrally controlled network.

It is hard to come to any conclusion from the lines of current debate on media policy other than that the Government and Parliament are determined to do their best to limit India’s citizens’ access to media, limit broadcasters’ ability to express, limit the presence of additional media supply to meet the huge growing demand, and maintain the present supply imbalance in a distorted media market. Given this, it is still possible to determine trends in the Indian media market, with one scenario documenting the Government’s cynical pursuit of restrictive goals for political gain, and another happier case showing the country’s true potential for growth in a less stifling, more enlightened policy environment. One can hope that the second case is that of the future, while the first scenario represents history—for the Indian market is now likely to be driven by technology and demand, with which policy can only try to keep up.

II. INFRASTRUCTURE AND CONTENT—DEMAND, SUPPLY, AND COMPETITION

Over the long term, India’s communications infrastructure has an annual growth of 25%. Within this broad trend, however, there are wide disparities between types of media, individual transport mechanisms and services. We have also seen annual growth rates of over 100% in cable television services in the first years of this decade, and nearly 300% annual growth in cellular and pager services—two of the segments of the telecom industry that are, like cable, privatized.
In contrast, the government-owned Department of Telecommunications ("DoT") has managed a 22% annual growth in recent years and maintains a waiting list for its lines. Doordarshan increased its viewership by a compound annual 27.6% in the decade since the introduction of color transmission in 1982, though annual growth for its primary channel after that point—which saw the proliferation of private cable and satellite channels—has been closer to 10%. Television growth has gone from an annual 82% in the 1980s to 14% in the past five years.

Given the disparities between absolute numbers for Doordarshan (68 million homes in 1997) and cable subscribers (20 million homes), every percentage point in growth difference between television homes and Doordarshan viewers represents an additional 3.4 percent growth for cable networks. It is interesting to note that the five-year initial period of cable television (1993-1998) has seen a compound growth rate (62%) almost double Doordarshan's growth rate in the five years since 1982, both periods starting with a similar viewership (3 million homes).

Clearly, there is a demand from the Indian consumer for a level of services and competition that government-owned monopolies are unable to provide in media as in telecoms. This is true for the basic media infrastructure—the competition I refer to is not the sort that forces Doordarshan into, say, "improving" its programming.

Indeed, Doordarshan has, since around 1993, largely ignored its public service responsibilities (unintentionally opening a market for the Discovery Channel, perhaps) and has focused increasingly on low-brow mass entertainment content of the sort that won market share for Zee TV, Sony, and others. The market and advertisers have responded, leaving Doordarshan with the bulk of commercial revenues. Yet viewers do not seem to be quite as enthralled, appearing to switch to cable and satellite channels simply because they are not Doordarshan. (Meanwhile, advertisers discount the worth of a large part of Doordarshan's viewership, leaving the broadcaster with a very low revenue to viewer ratio compared to private channels.)

So, competition seems to be seen by India's viewers as a good thing in itself, quite apart from its impact on the incumbent monopoly's services. Therefore, it turns out that viewer growth is driven by supply, rather than demand. Demand exists, and consumers of media and communications services simply spring up when a competitive supply environment is in place. (It is another matter that earnings growth has not been so exciting—in any market from cellular services to satellite channels to Internet services, most operators are losing money—but that is a subject beyond the scope of this chapter.) This media demand is not restricted to any specific technologies; it cuts across numerous media, from terrestrial radio to the Internet.
III. POLICY AND TECHNOLOGY—
FROM THE INTERNET TO RADIO

Unfortunately, the Broadcasting Bill is not the sole example of the Government's restrictive approach to media policy, which goes entirely counter to the country's clearly expressed demand for further supply competition in services. Take the market for Internet and data services. The DoT has had a policy of licensing so constraining that India had no Internet subscribers until 1995 (users of government-run networks limited to educational or research institutes do not count). Indeed, no proper datacom services existed at all until 1992. What did exist were Bulletin Board Systems ("BBSes"), some run professionally and transmitting e-mail around the world (through FidoNet) for a fee, others amateur and free to use. BBSes were declared illegal as soon as the DoT discovered them, since they refused to pay DoT's suggested annual license fee of Rs. 1.5 million (then US $50,000).

In 1993, a number of companies started providing e-mail services (paying an annual license fee of between $80,000 and $110,000). They never quite got off the ground, and the few that remained limped along in the hope that they would be able to offer Internet services.

In August 1995, VSNL, a DoT subsidiary (and monopoly for international communications), started an (unlicensed) Internet service. Subscribers went from zero to 45,000 in two years, and revenues looked good, too. But this represented barely one in fifteen computer users, and one in four modem owners; growth should have been much higher. The DoT has finally announced a "promotional" policy to allow private Internet providers licenses without any fees (for two years).

The DoT has consistently stated that it will have nothing to do with regulating content on the Internet. If anyone is to do that, it will be the Ministry of Information and Broadcasting (or the Broadcasting Authority set up by the Broadcast Bill). The Broadcasting Bill is, for the moment, ambiguous on datacom services, which fall under a broad clause covering "new services." Looking at the poor treatment of the Bill regarding sectors it does address, one might think this just as well. Given the poor ability of regulators around the world to affect Internet content—and the fact that government-owned VSNL disclaims any responsibility over content carried on its Internet service—the Bill is unlikely to dampen Internet growth in India.

Nor is it especially likely to hamper multimedia/"convergence" services: companies with a license to build telecom networks are already permitted (and encouraged) to build high-bandwidth infrastructure capable of carrying point-to-point multimedia content. They may not, however, use their infrastructure for broadcast services without a broadcasting license (getting a cable television license—and that is what
telecom networks are likely to want—costs just a few dollars under the Cable TV Regulation Act).

Media-communications convergence will be somewhat limited in India, though, as the Government is extremely unlikely to allow cable networks to provide telecom services. The reasoning behind this is simple: cable networks are unlimited in number (and will be difficult to restrict following the 1995 Supreme Court ruling), while telecom service licenses have been provided for billions of dollars. Telecom operators will want to extend the services they are allowed to provide while preventing others, such as cable operators who pay nothing in license fees, from competing on their services.

Today’s cable operators are generally small and poorly capitalized, and they pay taxes as providers of “entertainment,” thereby limiting technology upgrades. The growth of large cable networks, such as SitiCable and InCableNet (which are better described as consolidated multichannel signal providers to affiliate small operators), has not much improved cable infrastructure, particularly in areas such as “addressability,” crucial for targeting pay channels to selected homes.

Telecom operators, on the other hand, are big, relatively well-capitalized, and good with technology, and they receive tax concessions. They could be an important factor in the improvement of India’s cable infrastructure, perhaps competing with, but often in cooperation with, cable networks themselves.

In the lower profile areas of radio broadcasting services, the Government has been equally reluctant to increase the number of players, thereby boosting supply. Despite the attractiveness of television in India, radio is undoubtedly popular and in great demand. It remains ubiquitous in rural parts of the country and has been clawing back a share of the urban, television-addicted audience with peppy “private” FM channels.

FM radio is not actually privately run, as AIR merely franchises time slots on its single channel to private producers, who are mostly print publishers such as the Times of India. There is very little local-area programming of the sort that makes radio still a flourishing (if small, relative to television) business in the US.

Radio has been run in India in a completely centralized, top-down way—though a little less so than Doordarshan’s television services. In television, satellite channels increased supply sources and spawned growth. In radio, there is no private competition, and the franchise arrangements have been limited to a handful of big cities such as Delhi and Mumbai (Bombay).

Radio in India has tremendous potential, so long as the market is developed in a decentralized manner, benefiting from the economies of radio’s cheaper technology relative to television. The existing infrastruc-
ture of AIR itself could play a useful role here if it was made more easily available to local broadcasters. That would be a far more efficient use of AIR’s resources and would improve prospects for advertising revenue. Currently, AIR’s advertising revenue is a pathetic $27 million, about 6 cents per listener.

A similar case could be made for terrestrial television broadcasting, as Doordarshan’s programming structure remains highly centralized (notwithstanding the twenty-odd “regional” channels it has spawned in the past three years). It would probably benefit from selling or franchising local transmission infrastructure to local broadcasters—from the private sector or even from local cooperatives. This would restructure the terrestrial broadcast system from a centralized bureaucracy into a network of affiliates, free to address local demand for content as well as to carry national broadcasting. Once again, increasing the supply of programming sources will boost the translation of latent demand into an increase in audience size.

The Broadcasting Bill tends to be silent on the problems of a centralized approach to programming. The various competing proposed criteria for restrictions on cross-media restrictions may be seen as an attempt to address this issue, but, in fact, they are not. At this stage of development in India’s media industry, there is little chance of cross-media investment leading to negative monopolistic situations.

From a situation of total monopoly, even an oligopoly—the worst that a proliferation of cross-media holdings could lead to—is an improvement. It is certain that given India’s size—in terms of audience and also geography—building sufficient media infrastructure to meet existing demand, let alone develop latent demand, will require considerable investment. Indian companies have found it difficult enough to fund viable satellite channels—developing good, widespread cable and terrestrial coverage presents difficulties greater by several orders of magnitude. In such a situation, restricting investment to funds available in India is bad enough; restricting it to investors without other media interests would be stupid.

Of course, the whole treatment of cross-media restrictions in the current policy debate misses the point entirely. The greatest monopoly with a demonstrated inability to meet audience demand and, what is perhaps worse, inability to utilize efficiently its own infrastructure remains the “cross-media” combine of Doordarshan and AIR.

AIR and Doordarshan are, at the time of writing, at the threshold of merging into an “autonomous” organization, the Prasar Bharati Corporation, independent of the Government. It would be, perhaps, too much to expect an acknowledgment from this organization that restructuring into a distributed network of affiliates is the most efficient—and non-monopolistic—use of India’s terrestrial radio and television infrastructure.
IV. POLICY AND CONTENT—
FROM ENTERTAINMENT TO NEWS

Like the rest of the world, entertainment programming accounts for the bulk of the Indian audience, in terms of viewership, ad-spend, and produced content. However, the rapid pickup of the Discovery Channel and the huge popularity of a handful of news programs is symptomatic of a parallel attraction towards "serious" content.3

Doordarshan's "entertainment" (Metro) channel—which, started four years ago, did much to slow viewer defection to satellite channels and has some of the highest TRP rated serials—devotes twenty percent of its time to news and current affairs programming, largely privately produced. Popular satellite channels such as Zee, Sun, and STAR Plus spend less time on news and current affairs, but their average of fifteen percent is still high for entertainment channels as they project themselves.

The taste for serious content is geographically skewed; surveys have shown that audiences in southern Indian states watch more of it than in the north. That an underexploited demand exists in this area has become apparent to satellite channels who have thus now tended by default it towards saturation entertainment programming.

STAR TV has plans to start a 24-hour news channel (operated by NDTV); not to be outdone, Zee TV wants to start a news channel too, with Hindi-language programming. BBC and CNN exist, of course, but have not shown themselves capable of sufficiently addressing local audience demands, and viewership remains low. On the few live news events that attract huge national audiences—such as the Independence Day speech or the Budget speech in Parliament—STAR Plus has in the past simply carried Doordarshan's signal live, eating into the latter's audience.

In what represents a peculiarity of Indian politics, the one area where the Broadcasting Bill—and the entire policy debate surrounding it—seems to have got things right is news and current affairs programming. The draft of the Broadcasting Bill explicitly exempts channels dedicated to news and current affairs from all licensing requirements. A caveat is that they may not encrypt their signal (i.e., they must not be pay television services) or accept advertising. This clause is not expected to be taken seriously; though news and current affairs channels will lose money for many years in India, they will try for advertising. The Joint Parliamentary Committee has not found problems with this part of the Bill, and, indeed, any final policy is likely to extend this exemption from licensing to "educational" channels, specifically to include the Discovery Channel which nobody feels comfortable about shutting down.

Exemption from licensing requirements obviously implies exemption from limits on foreign or cross-media holdings, as well as regulation by an
Indian broadcasting authority. This shows the emptiness of the "national security" argument against foreign investment in media. If the Government is sufficiently in awe of India's traditions of a free press to allow the BBC to remain fully foreign-owned and unregulated, despite the channel's irritating (to the Government) reports on politically sensitive issues such as Kashmir, the "national security" argument is reduced to foreign entertainment—defending the country from Baywatch.

The Government quietly ignores the contradictions inherent in rightly allowing free broadcasting in some "serious" content sectors while wrongly restricting it in others. Even before any broadcasting reform was in place, in September the Government set a precedent by allowing foreign broadcasters to uplink live directly from Indian soil for the first time to cover the funeral procession of Mother Teresa. What it boils down to is that the Government is not trying to license for reasons of programming; let alone national security, but money. It hopes, perhaps, to charge sizeable license fees from rich entertainment channels and DTH services. Meanwhile, politicians and policy makers find it useful to immerse themselves in rhetorical argument over the importance of protecting the minds of Indians from "negative influences," for which foreign programs like Baywatch are a convenient scapegoat.

V. REGULATORY TRENDS IN MEDIA
AND COMMUNICATION

There is no doubt whatsoever that the medium-term trend on media and communications policy in India is towards deregulation and the liberalization of restrictions. Yet, in the short term, there have indeed been many setbacks. The process of liberalization has been one of two steps forward and one step back—in communications, that is. For in broadcasting, policy reform has yet to tiptoe forward even a single step from the current situation of legal—albeit unconstitutional, according to the Supreme Court—monopoly amid extralegal competition.

The contrast between the progress of reforms in communications and media is a study in Indian politics. Telecoms reform has moved determinedly forward, if on a twisted and painfully slow path. It has been an entirely unilateral process driven (reluctantly) by need, not goodwill, and by a government and bureaucracy unencumbered by constitutional protections.

Under the Indian Constitution, there is a clear distinction between the right to free expression under article 19(1)(a) and the right to conduct business under article 19(1)(g). The latter right, as the Supreme Court judgment in 1995 clarified, does not preclude the Government's decision to form monopolies for reasons of policy. However, the right to expression
cannot be restricted by government monopoly—it is limited only under specific constitutional clauses covering obscenity, national security, and similar "reasonable restrictions."  

So in telecoms, the Government, in responding to the pressures of the market to open it up to private and foreign investors, was well within its rights to impose a monopoly. It had the "right" to restrict—and in relaxing restrictions of its own accord, it did not have to respond to issues relating to that "right." Indeed, it saw itself obliged to remove controls, rather than to impose new ones.

The contrast with broadcasting could not be greater. The Supreme Court ruled that broadcasting is expression and, even if done for a profit, protected under the constitutional clause governing the right to express—\textit{not} the right to conduct business. Therefore, the Government could not restrict that right by creating monopolies; the Government broadcasting monopoly was unconstitutional.

This put the Government in the unique position, not of easing legal controls as in telecoms, but of setting up an entire legal infrastructure to justify an unconstitutional broadcasting setup. If the present situation was illegal, a new law had to be created. The new law, then, could be seen as imposing \textit{new} legal controls, for the current controls are not legal. This perspective opened up a feast of issues that had to be resolved. Specifically, the constitutional, "reasonable restrictions" on free expression had to be implemented in broadcasting law, replacing the unconstitutional, "unreasonable" restrictions now in place.

From this followed naturally the key issues in media policy debate, each linked to one or more of the "reasonable restrictions." Content control followed from the restriction on "obscenity" (but not, given the treatment of news channels, from "national security"). The debate on foreign ownership saw, apart from various issues of "national security," a hair-splitting examination of whether foreigners had any right to free speech at all in India, as the Constitution refers to the rights of "Indian citizens."  

In the telecom reform process few such issues cropped up. The minor exception, "national security," led to a clause allowing the use of private networks by the Government in cases of national emergencies and was the prime motivator for the limit on foreign holdings in telecom service providers. That limit has been flexible—initially set at 49%, it has been extended to 74% through the use of tiered ownership structures. The Government at first looked the other way, then explicitly permitted this. For broadcasters, however, the Government has said that any legislated foreign ownership limit will be strictly measured, including indirect investment through tiered ownership structures. Forty-nine percent will mean 49% and no more.

What this means is that the Government and Parliament will treat.
media policy with a sense of proprietorship lacking in telecoms. Many political parties have seen the benefits of controlling media through the decades of radio and television monopoly. They strongly believe broadcasting is much more "sensitive" a topic than communication. It is certainly something they understand—which cannot be said for communications, or they would see the artificial nature of legislatively distinguishing between the two.

The policy debate will not end with passage of the Broadcasting Bill. Far from it—it is clear that a number of issues will be fudged in the final legislation, particularly clauses requiring "foreign" satellite channels to uplink from India, various details of content regulation, and anything at all concerning multimedia services, new technologies, or the integration of communications and media.

The Government will also face the practical problem of enforcement, which is generally impossible as has been seen in the proliferation of (still illegal) satellite channels and the booming (and then illegal) cable television networks of the early 1990s.

Not surprisingly, policy makers have short memories. The present debate on "controlling" broadcasting echoes that which took place in 1991 when satellite television first took off in India (thanks to CNN and the Gulf War). At that time, there was much talk of jamming satellite signals, banning dish antennae, shutting down (illegal) cable networks, and similar restrictive measures. That none of this was possible is thanks partly to technology, but is also a heartening sign of India's implicit tolerance of free expression. But when the debate on the Broadcasting Bill is described as a debate on controlling media, it shows how deeply this implicit tolerance is set, as the Bill can only liberalise the present legal situation where all private broadcasting is illegal.

Moreover, it is another demonstration of the powerfully demand-driven nature of the Indian media market that policy makers and the legislation they bring forth are so far behind the market, not only because they ignore new technology, but because they ignore the latent demand that technology has ignited.

**VI. CONCLUSION: REGULATION DRIVEN BY TECHNOLOGY AND DEMAND**

It is no coincidence that the one market amid all telecommunications and media services in the country that has witnessed sustainable (meaning profitable), rapid growth—cable television—started subject to no government licensing or regulation. Indeed, the entire cable television industry remained technically illegal for five years until the passage of the Cable
TV Networks Regulation Act in 1995 (at which point growth reduced). Moreover, the Cable Act has been observed more in its breach: despite following minimal registration requirements, the regulations on content are largely ignored.

Although "foreign" satellite channels, Indian-owned or otherwise, are loss-making and, thus, not yet sustainable, their absolutely fundamental role in India's media revolution cannot be glossed over. It remains a fact that the transmission of satellite channels beamed over the country—and their reception by cable operators or individuals—remains technically illegal until they receive licenses under the Broadcasting Bill (or until the Indian Telegraph Act of 1885 is modified to legalize the unlicensed use of frequency spectrum).

In the case of the satellite channels, as in the case of the cable operators until 1995, the Government has been unable to enforce its restrictive, counter-intuitive, anti-technological, and anti-people laws. While the demand from Indians for these channels has increased drastically, the Government has been unable to stem that demand and stop the supply—either through technological means, such as jamming signals, or by preventing the flow of advertising receipts (through foreign exchange controls).

Seen in any light, the Broadcasting Bill—any broadcasting bill—is liberating rather than restrictive, because in an environment where nothing is permitted, providing for legal permission, under any constraining terms, is an improvement. But the Government's inability to enforce its current laws does not say much for its likely ability to enforce the terms of the Bill.

The technology favors broadcasters and their audience—bottom-up regulation, not regulation imposed from above. As long as India's people continue to see media differently from government and legislators, the market for media services will exist, irrespective of regulatory controls. If the Government wants to call it illegal, so be it. Going by precedent, that would actually increase growth!

Notes

1. The size of the market is based on viewers, not dollar revenues, as the terms of trade for media will keep revenues down relative to more developed markets for a long time, even calculated as purchasing-power parity.
3. It is interesting to note that The World This Week, one of Doordarshan's earliest programs produced privately by Prannoy Roy's NDTV, was slotted in the highest category of programming for ad-spend. NDTV has since shifted to STAR Plus, where the popularity of news and current affairs continues to be demonstrated.
4. INDIAN CONTR. art. 19(2).
5. Cross-media holding limits have no constitutional basis, though, and depending on the final wording in the legislation, they could be found unconstitutional and redundant—India already has an active monopolies regulator which should suffice for broadcasting.