

THE
DONALD MCGANNON
COMMUNICATION RESEARCH CENTER



WORKING PAPER

A TALE OF TWO RADIOS:

TRACING ADVOCACY IN A DEREGULATORY MILIEU

Vibodh Parthasarathi

Supriya Chotani

Centre for Culture, Media, & Governance
Jamia Millia Islamia University
New Delhi, India

January, 2010

The Donald McGannon Communication Research Center
Faculty Memorial Hall, 4th fl.
Fordham University
Bronx, NY 10458
718.817.4195
www.fordham.edu/mcgannon
mcgctr@fordham.edu

This paper has emerged from a mapping of the evolution of media advocacy in South Asia, with special emphasis on India. The mapping has four principal components: Enumerating the instruments, institutions and actors in segments of the media industry; Pinpointing key issues instilling debate in the post-1991 milieu, such as ‘autonomy’ and ‘community’; Identifying advocacy groups, their principal practices and preferred tools; and, Reviewing donor activity directed at NGOs in each media sector. The sectors of the industry covered under this exercise include the conventional ‘mass media’ (viz. television & radio) and emergent domain of ‘informatics’ (i.e. internet, mobile telephony and software).

In launching into this exercise, we well recognise the methodological limitations of tracking advocacy practices across South Asia. For one, the universe of sources is limited, as many deliberations are orally transacted, and thus are devoid of comprehensive textual documentation. This directs attention to not just untapped sources of advocacy analyses, such as email lists, but the analytical potential of their concert with expert interviews and public documents. This is but one rationale inspiring the conception of this project to give weight to ventures between academics and activists, discomfiting as such distinctions are. The project is a collaborative effort between an NGO, the Digital Empowerment Foundation (DEF), and an academic organisation, Centre for Culture, Media & Governance (CCMG) at Jamia Millia Islamia, both leaders in their fields in India¹. Such collaborations, infrequent in India, are particularly suited to mapping advocacy practices, since the latter span the worlds of informal and formal social action. They thus provide an enriched set of experiences towards reflecting upon, and intervening in, debates on media policy.

¹ See, www.defindia.net/ and www.jmi.nic.in/ccmg/index.html

This paper examines two trails of advocacy in the deregulated milieu of radio in India². One pivoted its efforts around a longstanding, albeit oft amorphous, motif in Indian society and polity: namely, ‘community’; the other sought to extend dominant economic discourse of our times into the sphere of radio: namely, ‘privatisation’. What bring these seemingly distinct trails together are not just their efforts at de-monopolising the state media but their common evocation of notions of Public Interest. The paper begins by sketching out the institutional setting of media policy in India to familiarise the reader with the principal actors at work. It then outlines key milestones in the deregulation of radio policy that led to the advent of private FM stations and Community Radio stations---the varying rationales of each being subsequently laid out. We then review this process to bring into relief their respective trails of advocacy; and in doing so we pinpoint key contests, and flashpoints, within and between these trajectories.

Actors, Institutions & Relationships

NEW INSTITUTIONAL DYNAMICS

Until a decade and a half ago, radio policy in India had evolved within the twin frameworks of geography and scarcity. That is to say, the governance of All India Radio (AIR) was conducted within the territorial framework of the nation-state, and hinged around the logic of information and channel scarcity³. In contrast, today’s media milieu is characterized by information abundance and multiplicity of platforms, and a tremendous

² The state broadcaster, All India Radio (AIR) was formed in 1936 by the colonial government. Sixty years later, there were over 200 stations comprising 145 MW, 55 SW and 103 FM transmitters---the first of the latter inaugurated in July 1977, at Madras (now Chennai). AIR continues to broadcast in 24 languages and 146 dialects for domestic listeners, and in 15 foreign and 12 Indian languages for its foreign services.

³ AIR has a three-tier organisational structure: National Stations broadcast centrally produced news bulletins in Hindi and English, classical & light music, plays, commentaries on live sports and other talk shows. Regional Stations located in different states dish out a programming mix similar to National Stations but in regional languages. Local Radio Stations, starting in the early 1980s, were sought to be flexible operations, serving small areas and broadcast in regional languages and dialects. This three-tier system, rickety at some places and staid at others, altogether covers over 90% of the country’s population and over 80% of its geography.

increase in the role of private stakeholders. Consequently, the emergent milieu has given birth to new historical actors and a fresh institutional dynamics mediating the relationship between various stakeholders.

While these new institutional dynamics in the radio sector are yet to completely crystallise, what is undoubtedly clear is that they involve a range of private stakeholders---and not state and para-governmental organisations alone, as hitherto. This has led to some policy debates viewing the ‘retreat’ of the state as condition for the fructification of these new actors. Rather than making a policy framework unnecessary, the deregulation of radio and the fresh issues it has generated, has called for new protocols of policy formulation⁴. These multifaceted trends pose some fundamental challenges to longstanding objectives of access, equity and/or public good. This makes the overriding problematic in the contemporary media milieu is that of governance. Not surprisingly, this has spurred the genesis and proliferation of a fresh set of advocacy practices as well. The core challenge these practices confront is: who will be involved in decisions about the future?

In the initial-run of deregulation in the communication industry, the state responded through the Executive (via a Policy or an Ordinance)---rather than the Legislature (i.e. through new or amended Acts)⁵. However, international bodies and national firms alike demanded that the state could not partake as both, the arbitrator and commercial player⁶. Thus, due to the compulsions of the altered macro-economic milieu, a historical shift occurred in the governance of the emergent media environment. The regulatory aspects of the communication industry moved out of the hands of the concerned administrative Ministries

⁴ The challenges confronting the early phase of media deregulation are brought together in, Monroe E. Price & Stefaan G. Verhulst (Ed.) *Broadcasting Reform in India: Media Law from a Global Perspective*; OUP, New Delhi.

⁵ For instance, the National Telecom Policy of 1994 laid down guidelines to administer de-regulation in telecom---measures enhanced through the New Telecom Policy of 1999, which additionally addressed aspects of pricing services, manufacturing equipment, universal obligation, and timelines on further liberalisation. The Ordinance-route was deployed for Cable TV, which saw numerous ad hoc measures in the early years. Although the Cable Television Network Rules, 1994 provided the first set of guideline, only after the Cable T.V. Networks (Regulation) Act of 1995 did matters of ownership, pricing, mandatory feeds and foreign investment started being addressed, however selectively.

⁶ As in regulated media of Europe and South East Asia, government departments/ministries in India were also managing revenue-earning, public-sector and/or quasi-governmental entities in telecom, TV and radio.

to a landmark instrument: the Telecom Regulatory Authority of India Act, 1997. This Act was a response to the geometrical expansion of the mobile telecom sector, and the related glut of private actors; it covered the transmission/reception of all kinds of data through wired or wireless mediums---except broadcasting services⁷. But in the ensuing institutional history of TRAI, two substantial changes unfolded. First, learning from the bottlenecks in its implementation, the Act was modified as the Telecom Regulatory Authority of India (Amendment) Act, 2000. The amendment created an arbitration body, the ‘Telecom Disputes Settlement & Appellate Tribunal (TDSAT) to mediate and quickly resolve disputes between a licensor and licensee, between service providers, a service provider and consumers; it was also to arbitrate appeals against decisions taken by TRAI⁸. Secondly, since TRAI was the sole regulatory institution in the communications industry, over the years it became, by default, the *de facto* regulator for other sectors of the informatic and media industries⁹. Resultantly, TRAI has been producing consultative papers and recommendations on matters ranging from community radio to digitalisation of cable distribution, from 3G mobile services to trans-national satellite television.

RISE OF NON-STATE ACTORS

Unlike the state, the activities of private entrepreneurs in the media are not directly accountable to citizens: their performance is not regularly validated through electoral processes, nor is even a minimal level of transparency achievable through legal stipulations. This calls for enumerating the role of various interest groups, besides broadcasters qua broadcasters.

⁷ Its mandate ranged from recommending the need and timing for introducing new services and service providers, to granting licenses & levying fees, ensuring technical efficiency, protecting consumer interests, settling disputes within the industry and with the government.

⁸ see <http://www.tdsat.nic.in/>

⁹ The reasoning for this expanded mandate was two fold: first, since, like telephony, other sectors also hinged around the transmission/reception of data, and disputes over and competition between technological formats, TRAI could play a similar role for sectors other than telecom. Secondly, a common regulatory parameter for these diverse sectors and services was the allocation of spectrum---to specific segments and to firms within each segment.

Foremost are specialised divisions dealing with the media industry within apex industry-associations. Over the last decade, the three apex industry associations in India---CII, FICCI & ASSOCHAM---have shown varied degrees of engagement with the media industry. Their potency stems from their capacity to involve actors with conflicting interests in arriving at specific policy frameworks. In the media sphere, the most active of this trio, FICCI, conducts two crucial advocacy exercises: an annual conference on the media industry, “Frames”, and an annual Report on the industry, prepared by the Indian arm of the consulting firm Pricewaterhouse Coopers.

Trade Bodies representing specific sectors and segments of the media industry are the second fulcrum of advocacy. They provide a platform for firms to protect and further their interests, advocate best practices, and mediate between domestic and trans-national stakeholders. The *Association of Radio Operators for India* (until 2006 known as *The Radio Group*) voices the concerns of major private FM broadcasters, and has taken up issues of taxation, common charges and levies enforced by various arms of government¹⁰. Since an overwhelming amount of air-time on private FM stations is music, *The Indian Music Industry Association* (IMI) has emerged an important actor in the de-regulated media milieu in general, and radio in particular¹¹. Representing over 50 prominent national and trans-national labels, constituting over 75% of the organised segment of this industry, the IMI has been negotiating with FM stations, Internet portals and Telecom operators for mutually beneficial financial and copyright arrangements; in this process, however, it has fallen short of carrying along other stakeholders, especially the *Performers Rights Association*.

The third fulcrum of advocacy, especially during the deregulation of radio, surfaced

¹⁰ In April 2006, The *Association of Radio Operators for India* (AROI) got membership of the International Association of Broadcasting, the global body of private FM broadcasters, which led to its integrating an international dimension to its advocacy within India.

¹¹ Perhaps more than in other countries, the significance of the music sector in India rests as much in its own dynamism as in it being the principal ancillary to other sectors of the media industry viz. cinema, radio, television and increasingly, telecom; see V. Parthasarathi (2007) “The Ecology of Creative Industries: The Indian Music Industry Un-played”, *Report towards a National Mission in Creative Industries*; Asian Heritage Foundation, New Delhi.

outside private industry---amongst NGOs. From the VIII Plan considerable emphasis and space was given to NGOs; government recognized that their initiatives, variously relying on people's active participation, had a greater chance of success. And by the X Plan, measures were being taken to create an "enabling environment for the voluntary sector to collaborate with Government for development"¹². This incrementally created a scenario wherein NGOs--once located outside, even in opposition to, the apparatus of the state---got cumulatively integrated with government's planning protocols. In the specific segment of media-centric initiatives by NGOs, the last 15 years has witnessed a growing realisation of the importance of communication both as an instrumental and substantive activity. These were continuously buttressed by changes in the broader deregulatory environment: the easier and affordable availability of media technologies; and, the expanded support to media-related social interventions by a host of bi-lateral, multilateral and private philanthropic organisations¹³. Like in Sri Lanka and Nepal, Community Radio campaigners in India formed an association to synergise their interests: the Community Radio Forum (CRF)¹⁴. As the nodal agency for advocacy, CRF facilitates an interface between the government, NGOs, industry and funding agencies on the one hand, and helps organizations to set up Community Radio Stations. Focus on CRF should not ignore the germination of sub-national advocacy groups, such as the South India Community Media Network (SICMN) and a CR network within Maharashtra. Irrespective of their current capabilities, they convey the emergence of multiple formations, conceivably spurred by varying interests, within the CR campaign in India.

All in all, the rapidly transforming media milieu in India has churned out, with equal rapidity, a fresh configuration of state and non-state actors. The latter have shown

¹² One crucial step was to declare the Planning Commission as the nodal agency for the Government-NGO interface within the formal apparatus of the state; Planning Commission (2002) *Report of the Steering Committee on Voluntary Sector in the 10th Plan (2002-07)*; Planning Commission, Government of India, New Delhi (May) p.10.

¹³ UNDP, Ford Foundation, ADB, WB, Japan International Cooperation Agency (JICA), DFID, Free Voice, HIVOS, USAIDS, UNESCO's IPDC, to name a few, have engaged with segments of civil society media in most South Asian countries.

¹⁴ CRF came together through 'CR-India', a discussion list started in 2000 to consolidate the campaign to licence community radio stations; see, www.crforum.in.

tremendous variation in their priorities and emphases on matters of governance---be it within their respective segments/sectors, in their interaction with the state and in response to multi-lateral organisations like ITU, GATT, WIPO, UNCTAD etc. One of the difficulties in gaining clarity on advocacy initiatives by both Corporations and NGOs is that they represent diverse interest groups, practices and intents. Nevertheless, two questions call for exploration while viewing the role of non-state actors. First: how do they seek to manage the contradictory interests in the increasingly complex media industry, especially since policy decisions on technology and commerce are often perceived to constitute a zero-sum game¹⁵? Second: since the plethora of stakeholders aim to establish, and/or further, particular regimes of media governance, to what extent has the State been able to frame media policy in the interest of the individuals---both, as consumers and citizens?

These questions nudge us to examine the anatomy of advocacy practices adopted by different inter groups to deregulate radio--- viz. Union Ministries, the Regulator, Trade Bodies and NGOs. In exploring these, it is fruitful to pay attention to instances where each actor used the rationale, advocacy experience and policy thrust of the other to leverage their own interests.

Towards De-Monopolisation

TRENDS OF DEREGULATION

In 1993, AIR started selling time slots on its programming cycle to private producers in five cities. Such incipient deregulation in public infrastructure and privatisation of air-time was similar to the measures undertaken in Doordarshan, the public TV broadcaster, during

¹⁵ Be it between sectors (say, Telecom Vs Internet, Radio Vs Music) or within a sector (producers, distributors, rights holders et al).

mid 1980s¹⁶. But it took 7 years for the de-monopolisation of radio to unfold; in May 2000, 108 frequencies in the FM spectrum were auctioned to private broadcasters across 40 cities; licenses were awarded for a ten-year period and escalations in license fees were set at 15% per annum on the base of the first year fees¹⁷. Issued on a non exclusive basis for free to air broadcasts, the licenses barred airing of News, networking of stations across cities and mandated 50% of programming be produced in India. Although the first private FM station went on air in July 2001, by April 2004 services had commenced in only 14 cities by 24 radio operators. Moreover, an overwhelming number of radio broadcasters---many of who lacked experience in the media sector and/or broadcasting of any sort---found their nascent enterprises unviable, primarily due to the high license fee; most of these reported their heavy losses were likely to continue.

Help came in May 2002 from the Working Group on the Information and Broadcasting Sector for the Formulation of the X Plan. It argued that treating the licensing of private FM as a source of revenue for the Government was counter productive---as it hindered both, the growth and roll out of private FM stations¹⁸. Conveniently sidelined was the fact that the private broadcasters, who saw FM stations only as a source of revenue, had made un-informed and over-estimated bids in the I Phase of licensing---and resultantly, were in the red. To reformulate policy for the II Phase of licensing, the government constituted the Radio Broadcast Policy Committee (RBPC) in July 2003, headed by the Secretary General of the apex industry body, FICCI. In February 2004, the Union Ministry of Information & Broadcasting (MIB) sent the RBPC report to the regulator, TRAI---who had meanwhile started on a Consultation Paper for the II Phase of FM licensing. Based on the experience of

¹⁶ For a recent writing on the de-regulation of TV in India, see Victoria L. Farmer (2009) 'Nation, State, and Democracy in India: Media Regulation and Government Monopoly'; Paper presented preconference 'India and Communications Studies', at the Annual Meet of the ICA (May), Chicago, www.global.asc.upenn.edu/docs/ICA2009/VFarmer.pdf

¹⁷ Although 101 bids were received for an aggregate of Rs 425 crores, against estimates of Rs.79.65crores, the actual collection for the public exchequer was only Rs.158.8 crores, as bidders of 64 frequencies defaulted.

¹⁸ Planning Commission (2002) *Report of The Steering Committee on Communication and Information for The 10th Five-Year Plan (2002-07)*; Planning Commission, Government of India, New Delhi (May)

the I Phase, and the views of principal stakeholders---the Ministry, TRAI and Industry---the II Phase of licensing was set into motion in July 2005; it ambitiously targeted spreading private FM stations to 92 cities across India.

The emergence of Community Radio on the horizon of policy options was not isolated. Rather, it emerged very much from the piecemeal process of de-monopolisation of not only Radio in general but of FM frequencies in particular. In December 2002 the MIB released Community Radio Guidelines for “well established educational institutions”. Barred from airing news and advertisements, these ‘Campus Radio’ stations were seen as the fourth tier in the national radio network---along with AIR, IGNOU¹⁹ and Private FM stations. In approving these guidelines, the Union Cabinet failed to recollect past initiatives at local broadcasting by AIR, commencing nearly two decades ago²⁰.

In May 2004, the MIB organised a workshop on ‘designing an enabling framework for community radio’, thereby tacitly admitting the limitations of its Campus Radio initiative²¹. The Workshop resulted in a set of inputs that fed the draft Community Radio Policy subsequently drawn up by the Ministry²². Meanwhile, TRAI had embarked on its earlier promise of preparing a separate Consultation Paper on Community Radio, released in August 2004. More than two years later, in November 2006, the new Community Radio Policy got finally notified; it contained the long-standing demand by NGOs of permitting non-profit organisations to initiate Community Radio (CR) stations. Like with private FM, News was barred on CR but limited advertising and announcements on local events, businesses and

¹⁹ In 2000 government allowed IGNOU to set up FM stations in 40 cities for educational broadcast, of which only 10 radio stations are in operation.

²⁰ Following the successful introduction of a local radio station in Nagercoil (Tamil Nadu) in 1984, over 70 others were set up by AIR by 1999. Overtime, many of these started relaying national programmes, thus defeating their conceptual and operational foundations. For an ethnography of one such local station of AIR, see Jayaprakash, Y.T (2000) ‘Remote audiences beyond 2000: Radio, everyday life and development in South India’; *International Journal of Cultural Studies* Vol. 3/2 (pp.227–239)

²¹ Much like private FM stations, the first Campus Radio at Anna University, in Chennai, reflected the inability of the broadcaster to manage the large capital cost of operation (Rs.12-15 lakhs) and annual expenditure on three hours of programming a day; TRAI (2004) ‘Consultation Paper On Licensing Issues Relating to Community Radio Stations’; *Consultation Paper*, Telecom Regulatory Authority of India, New Delhi, (August 25) p.13.

²² They covered key concerns of NGOs: permitting communities through legal entities to start CR stations, airing local news and using advertisements.

employment opportunities got the green signal.

Clearly, the processes of formulating FM and CR policy were equally long drawn, and faced comparable setbacks in their initial phases of operation. Central to our concerns in this paper is not merely how open—commercially or ideologically—the radio sphere is; rather, under what conditions was this domain de-monopolised, the kinds of interests radio frequencies are deregulated for, and the directions of further policy thrusts. This directs us to examine the differences between the FM & CR experiences in India: viz. the salience of its stakeholders, their involvement in crucial stages of policy reformulation, and their distinct relationships with the formal apparatus of the state. To do so, also implies examining the plethora of rationales adopted by the proponents of FM and CR for deregulating radio—especially since both invoked notions of public interest.

THE RATIONALE OF PRIVATISATION

In continuation of the policy of liberalization, the Government initiated discussions on deregulating the Radio sector during the IX Plan (1997-2000). Besides aiming to improve the variety of content on AIR, the sole radio broadcaster at the time, a shift in emphasis from MW to FM was proposed, due to the “superior quality of FM transmission”²³. And it was in opening up FM frequencies that the government visualised the role of Indian companies to set up private radio stations on a license fee basis. This de-monopolisation of FM was aimed at commercial entities expanding the canvas of entertainment, education and information dissemination, through programming that would be localized in content *and* relevance. This approach was adopted to encourage new talent and employment opportunities, while simultaneously to supplement the efforts of AIR in rapidly expanding radio networks across

²³ TRAI (2004) ‘Consultation Paper On Licensing Issues Relating to 2nd Phase Of Private FM Radio Broadcasting’; *Consultation Paper No. 8 /2004*, Telecom Regulatory Authority of India, New Delhi, (April); The 10th Plan raised this point as well; Planning Commission (2002) *10th Five Year Plan (2002-2007)*; Planning Commission, Government of India, New Delhi (Dec.) p.1012.

the country²⁴.

Two years after private FM commenced and stations were found to be financially bleeding, government deemed the License Fee model a failure. Government explained this failure on count of it treating FM frequencies as source of revenue for the public exchequer--- a move that was, in turn, reasoned to have also hindered both the growth and roll out of this segment in radio²⁵. In weighing policy options, government was caught between the desire to continue encouraging private sector participation in broadcasting and the dangers of allocating frequencies to private interests at an undervalued price. Although a key rationale for deregulating FM was education---as reiterated in the X Plan document²⁶---the onus of such non-commercial ventures was implicitly placed on AIR and IGNOU. It is an unexplainable irony that government stipulations encouraged private operators to initiate FM stations services in metros and small cities---i.e. in those very areas which, while extensively covered by AIR, constituted the most lucrative markets for advertisements. Despite such covert support to private broadcasters and having migrated to a revenue sharing mechanism in the II Phase of Licensing, the desired outcomes did not precipitate. The Sub-Group on Information and Broadcasting formulating the XI Plan (2007-2012) duly noted that FM services had failed to cover 60% of the population---one of the major targets of the X Plan²⁷.

As its first concerted, and officially sanctioned, advocacy initiative, the Report of the Radio Broadcast Policy Committee (RBPC), submitted in November 2003, recognised that broadcasting freedom involved a delicate balance between various interests. Emphasising that

²⁴ TRAI (2004) 'Consultation Paper On Licensing Issues Relating to 2nd Phase Of Private FM Radio Broadcasting'; Consultation Paper No. 8 /2004, Telecom Regulatory Authority of India, New Delhi, (April) p.1

²⁵ Planning Commission (2002) *Report of The Steering Committee on Communication and Information for The 10th Five-Year Plan (2002-07)*; Planning Commission, Government of India, New Delhi (May) p. 44. TRAI also explained the delay in rollout and growth of FM services on the same count; TRAI (2004) 'Consultation Paper on Licensing Issues Relating to 2nd Phase Of Private FM Radio Broadcasting'; Consultation Paper No. 8 /2004, Telecom Regulatory Authority of India, New Delhi, (April 14) p3.

²⁶ Planning Commission (2002) *10th Five Year Plan (2002-2007)*; Planning Commission, Government of India, New Delhi (Dec.).

²⁷ Planning Commission (2007) *Working Group Report of 11th Five Year Plan (2007-12) on Information and Broadcasting Sector*; Planning Commission, Government of India, New Delhi (January) pp.60-62.

ensuring diversity of content by private broadcasters was a key objective of privatisation in radio, it reviewed the I Phase of FM licensing as follows:

*It has been observed that all the FM channels are increasingly offering similar content (usually only Hindi film music) and sound alike. Niche channels (like classical music) have not been developed by the private FM broadcasters. The reason cited by industry players for such standardization of content is that advertising is the only source of revenue and advertisement revenue is determined by the audience of the particular channel. High license fees structure has forced the licensees to provide content that appeals to all sections across society rather than a special interest group in society.*²⁸

In pinpointing the causes behind the commercial failure of the inaugural phase, the RBPC was more forthright than the government. It reasoned this to have been on count of (a) speculative bidding due to absence of stiff penalty clauses on withdrawal; (b) post-bidding variation in the Tender Documents and the LOI/ License Agreement and (c) inappropriate forfeiture clauses which provided easy exit options to the industry players. Optimistic about these lacunae being addressed in the II Phase of Licensing through a strong contractual and policy framework, the RBPC advocated a migration of the license terms from a fixed fee basis to a one-time entry fee, and an annual revenue sharing arrangement with the government²⁹.

While TRAI saw in the RBPC the government warranting changes in the II Phase, it took exception to, and/or differed with, some views of this industry-dominated committee³⁰. The regulator's review of licensing, regulatory and competitive frameworks of the I Phase of

²⁸ RBPC Report quoted in TRAI (2004) 'Consultation Paper On Licensing Issues Relating to 2nd Phase Of Private FM Radio Broadcasting'; Consultation Paper No. 8 /2004, Telecom Regulatory Authority of India, New Delhi, (April 14) p.49.

²⁹ TRAI (2004) 'Consultation Paper On Licensing Issues Relating to 2nd Phase Of Private FM Radio Broadcasting'; Consultation Paper No. 8 /2004, Telecom Regulatory Authority of India, New Delhi, (April 14) p.4. It visualised increasing the viability of private FM stations by reviewing certain restrictions and terms in the Tender Documents and the License Agreement---such as the duration of the license, restriction on FDI, restriction on transmission of news and current affairs, restriction on multiple licenses in one centre, vary the revenue sharing arrangement every five years, etc.

³⁰ Importantly, the RBPC omitted cross-media issues.

licensing in 2004 directed attention to design “suitable corrective policy measures” in the 2nd phase of FM Licenses³¹. Instead of fresh thinking, TRAI limited its “overarching objective” to devising ways to implement the goals set out by the government in the X Plan: i.e. providing access to FM radio to 60% of the population, encouraging private sector players, and moving to a revenue sharing mechanism³². But unlike the government, the regulator was upfront in recognising the existing, limited reach of private FM will make it be difficult for “this part of the industry to contribute significantly to the task of achieving the 60% coverage target”³³. Since this required private resources to supplement AIR’s efforts, TRAI was categorical that such resources could be attracted only “by keeping entry costs low”³⁴. Thus, for TRAI, any strategy to achieve the objectives of the X Plan had to include, inter alia, “keeping the revenue angle as secondary in importance”; this was estimated to enable, not only a growth in FM radio but, the public exchequer to gain two fold---viz. by increases in overall quantum of license fees and by increases in the service tax from advertisers³⁵.

Surprisingly, when it came to AIR, TRAI reversed its standpoint on revenue being a secondary consideration. Drawing attention to AIR being exempt from entry fees or license fees---since it provided non-commercial services as well---TRAI visualised that “at some stage in the future this will need to be done, in the interest of level playing field conditions”. Implicit here was the regulator’s intention to strengthen private FM stations by proposing to only reduce their cost of entry but also erecting fresh barriers for the public broadcaster.

³¹ TRAI (2004) ‘Consultation Paper On Licensing Issues Relating to 2nd Phase Of Private FM Radio Broadcasting’; Consultation Paper No. 8 /2004, Telecom Regulatory Authority of India, New Delhi, (April 14) p.3.

³² TRAI (2004) *Recommendations on Licensing Issues Relating to 2nd Phase of Private FM Radio Broadcasting*; Telecom Regulatory Authority of India, New Delhi (Aug.) p.7

³³ At present AIR has 140 stations covering about 33% of the population. As against this, the population of all the 40 towns that had been put on bid for the private sector in Phase I was only 10.20%; TRAI (2004) *Recommendations on Licensing Issues Relating to 2nd Phase of Private FM Radio Broadcasting*; Telecom Regulatory Authority of India, New Delhi (Aug.) p.7.

³⁴ TRAI backed this by quoting distinct experiences: the international experience of private FM to show the prevalence of both, low license fees and revenue share model; and, the national experience of the telecom sector, to illustrate that as license fees dropped, the market expanded and the government ultimately got more revenues than if a high license fees structure remained.

³⁵ TRAI (2004) *Recommendations on Licensing Issues Relating to 2nd Phase of Private FM Radio Broadcasting*; Telecom Regulatory Authority of India, New Delhi (Aug.) p.8

INTEGRATING MARGINAL STAKEHOLDERS

While both the IX Plan and its end-Plan Review were silent about CR, the Steering Committee on Communication and Information for the 10th Plan (2002-2007) envisaged “Low Power community radio stations” in FM mode by local communities and non-profit organizations such as Universities³⁶. This was an extension of the government’s belief in the “Superior quality of FM transmission” observed in the IX Plan, and another illustration of its attempts at expanding the sphere of FM broadcasts, as observed by the X Plan Steering Committee³⁷. The Working Group towards the XI Plan was categorical on community broadcasting being expanded to include elementary education programmes³⁸. Taking cue, the XI Plan visualised a spurt in CR on the premise that permitting NGOs (limited) commercial advertising time will make stations self-sustaining, and low capital investments would enable NGOs to cater to populations in the 5 to 10 kilometre radius “fairly intensively”³⁹.

One of the terms of reference to the RBPC was to examine the possibility of non-commercial, non-advertisement driven channels, to be operated by private FM broadcasters. Weighing the option of stipulating 10% of broadcast time on private FM stations for non-commercial programming, the RBPC realised this could run into problems of defining, scheduling and monitoring ‘non-commercial’ content. As a pragmatic alternative, the RBPC proposed 25% of the revenue share received by the government from FM broadcasters be set apart in a separate fund to develop non-commercial channels. Thus, RBPC obliquely hinted against the necessity of CR stations---possibly due to them competing for the advertising pie sustaining private broadcasters. In doing so, the RBPC was proposing an expanded role for

³⁶ Planning Commission (2002) *10th Five Year Plan (2002-2007)*; Planning Commission, Government of India, New Delhi (December) p.1012.

³⁷ Planning Commission (2002) *Report of the Steering Committee on Communication and Information for The 10th Five-Year Plan (2002-07)*; Planning Commission, Government of India, New Delhi (May).

³⁸ Planning Commission (2007) *Working Group Report of 11th Five Year Plan (2007-12) on Information and Broadcasting Sector*; Planning Commission, New Delhi (Jan.) p.33.

³⁹ *ibid* p.51.

private FM stations that would, importantly, draw on the public exchequer---thereby weaning away resources from some services of AIR as well.

Taking up this matter in its Consultation Paper on FM II Phase, TRAI felt reserving additional frequencies for such non-commercial but privately owned stations will further constrain the availability of FM spectrum. In the ensuing deliberations, some industry stakeholders suggested the frequency for non-commercial channels in cities be reserved, and tendered-for separately with a low reserve fee and lower percentage of revenue share. But when TRAI rightly amplified the fact that such programming was already being carried out on AIR channels, the carefully cultivated propositions by RBPC met a quiet burial.

As an alternative, TRAI proposed creating and incentivising special purpose licenses, or mandating each private FM licensee to have a certain timeslot for non-commercial programming⁴⁰. But at that juncture, TRAI also observed that the objectives relating to educational programmes in particular---harped upon by the government---and community development in general were to some extent met by the existing framework⁴¹. Elaborating on this, TRAI noted:

*“Markets may not be able to provide all the content that may be desirable. For such content there has to be a way of providing and promoting such content. It is not necessary to provide a separate channel or station for such content and these can very well be grafted on to the existing channels. It is also possible that AIR can do this work. However this issue can be delinked from the current process which is aimed at promoting the growth of private FM radio, and more specifically the licensing conditions for Phase II.”*⁴²

⁴⁰ TRAI (2004) 'Consultation Paper On Licensing Issues Relating to 2nd Phase Of Private FM Radio Broadcasting'; Consultation Paper No. 8 /2004, Telecom Regulatory Authority of India, New Delhi, (April 14), p.16

⁴¹ This refers to the 'Community Radio Guidelines' issued by the Ministry of Information & Broadcasting in 2002, applicable only to educational institutions.

⁴² TRAI (2004) *Recommendations On Licensing Issues Relating to II Phase of Private FM Radio Broadcasting*; Telecom Regulatory Authority of India, New Delhi (Aug.) p.44.

While TRAI endorsed the practice of NGOs buying time on AIR to broadcast their programmes---a practice defined as ‘Community Audio Projects’---it had quietly been questioning the rationale of such organisations to demand separate CR stations⁴³.

These contradictory viewpoints got clarified in TRAI’s *separate* Consultation Paper on CR---a demand first raised by NGOs during deliberations on the II Phase of FM Licensing. Going against its earlier position, TRAI argued that since AIR catered to the needs of the majority of audience through a centralized program production, it was not possible for it to take up “issues affecting small communities”⁴⁴. Resultantly, facilitating ‘participatory community development’ and strengthening the vacuum at the local level was pointed out as the core objective of CR: viz. local languages/dialects, showcasing local cultural expression, exchange & discussion on relevant local issues, acting as a watchdog on civic authorities etc⁴⁵.

This brings home some traction between TRAI’s rationale for CR and that of donor agencies in the development sector, some of who had championed the cause of CR since the mid 1990s. At the forefront was UNESCO, which dovetailed the necessity of CR with its wider, strategic objectives in the Communication & Information Sector: i.e. promoting the free flow of ideas, universal access to information and cultural diversity in the media. On its part, PANOS South Asia, increasingly concentrating on local language media across South Asia, explained the efficacy of CR due to its “cheap and easily accessible” infrastructure; its emphasis on CR stemmed from its strategic objectives of keeping public interest as the governing principle, and inclusion as a key modality⁴⁶.

⁴³ TRAI (2004) ‘Consultation Paper On Licensing Issues Relating to Community Radio Stations’: [Consultation Paper](#), Telecom Regulatory Authority of India, New Delhi, (Aug 25) p.23. [TRAI singled out for praise the community audio projects by NGOs in Gujarat, in Uttaranchal, Jharkhand and Bihar.](#)

⁴⁴ TRAI (2004) ‘Consultation Paper On Licensing Issues Relating to Community Radio Stations’: [Consultation Paper](#), Telecom Regulatory Authority of India, New Delhi, (Aug 25) p.7

⁴⁵ *ibid* p.7

⁴⁶ Panos South Asia (2008) *Annual Report* (p.8) <http://www.panossouthasia.org/pdf/Annual%20report%202008%20FINAL.pdf>

Supported by UNESCO, amongst the initiators of public debates on CR was the NGO, VOICES⁴⁷; it imagined CR as a media hub that could be “the nerve centre of social and economic activity and development in the village”⁴⁸. Delving further, Charkha---an early mover in the community audio project space---was driven by the belief that such initiatives would enable “their issues reach the higher corridors of power, in Jharkhand and New Delhi”⁴⁹. In a similar vein, for One World South Asia, CR was an instrument for people to attain entitlements; being able to inform citizens about welfare programs would, in turn, help “the government in analyzing and implementing its social development programs”⁵⁰. In contrast, Drishti Media Collective saw CR as part of wider efforts at democratising the airwaves, and at strengthening community rights⁵¹. Others like Deccan Development Society spun a discourse which integrated CR within the broader canvas of their existing social interventions⁵².

Moving from intent to institutions, the kernel of CR lay in the issue of entities considered eligible to run stations. Addressing this, however, runs straight into the conceptual and empirical maze of the idea of ‘the community’. It is crucial to recall that the idea of ‘community’, and even ‘community radio’, can be coherently traced back to earliest policy debates over the introduction of radio in colonial India⁵³. In the milieu of late colonialism there were contrasting conceptions of ‘community’ by British romanticists and by

⁴⁷ Established in 1994, VOICES is a development communications NGO based in Bangalore. www.voicesindia.org

⁴⁸ Asirvatham, T. & Vellani, S. (1999) ‘Community Radio in India’, *The Journal of Development Communication* Vol. 10, No. 2 (pp. 65–71)

⁴⁹ Charkha was born from the realisation that developmental issues in rural India were not receiving adequate coverage in mainstream media <http://www.charkha.org> In October 2004, it started a 30 minute programme ‘Pechuwail Mann Ker Swar’ on Sunday evenings by AIR, Ranchi.

⁵⁰ The South Asian centre of *One World Network* largely focuses on using ICTs to promote sustainable development and human rights. www.southasia.oneworld.net

⁵¹ www.drishtimedia.org

⁵² Working with Dalit women in Medak District, DDS argued the need for an autonomous media owned and controlled by women from the marginalised sections---as much to protect the general rural populace being mediated by corporate and urban interests. www.ddsindia.org

⁵³ Although this has been noticed by few scholars, it has inspired contrasting explanations; see, Das, B. (2005) ‘Mediating Modernity: Colonial Discourse and Radio Broadcasting in India’, in B. Bel, J. Brouwer, B. Das, V. Parthasarathi, G. Poitevin (Ed.) *Communication Processes – Vol. 1: Media and Mediation*; Sage, New Delhi; and, Zivin, J. (1998) ‘The Imagined Reign of the Iron Lecturer: Village Broadcasting in Colonial India’, *Modern Asian Studies* Vol.32, No. 3 (pp.717-738)

Gandhians---albeit equally signifying ‘interpretative’ notions of community⁵⁴. In post-British, post-partition India, amidst successive permutations of communication technologies and modernization emphases, the community retained its locus. But it did so purely instrumentally: ‘the community’ formed the laboratory for the centripetal deployment of radio as a ‘development tool’⁵⁵; and, the citing of radio receivers within the domestic, rural environment was aimed at connecting the family and home with the nation-state. Guided by the requirements of nation-building and the objectives of modernisation, this signified the imagination of an ‘improvised’ community⁵⁶.

Perhaps because of this political and intellectual legacy, and despite the consensus on the non-profit nature of CR today, there lurks an amorphous idea of ‘community’---evident also in CR discourses in neighbouring Bangladesh⁵⁷. It may be argued that the difficulties in engaging with the idea of ‘community’ resulted in NGOs in India insisting the necessity of intermediaries--with well-defined legal status---in cradling CR stations. But there was also agreement among advocates that CR should not imply ‘NGO Radio’---a viewpoint sharply differentiating the Indian scenario with Bangladesh⁵⁸. This fuelled the need to widen the range of entities eligible for CR licenses. For instance, at the consultations hosted by One World South Asia, the case for Gram Panchayats and other local bodies like village Self Help

⁵⁴ This is based on a historically informed, three-way typology of the construction of ‘community’ in media policy/research; see Das, Biswajit (2008) ‘Constructions of Community in Communication Research: A Study of Radio Broadcasting in India’; CCMG Working Paper No. 02/2008, Centre for Culture Media & Governance, Jamia Millia Islamia, New Delhi

⁵⁵ The most influential proponent of this was undoubtedly Lerner, Daniel (1958) The Passing of Traditional Society: Modernizing the Middle East; Free Press, Glencoe. On the Indian context, see Rao, Y.V.L. (1966) Communication and Development in a Study of Two Indian Villages; University of Minnesota Press, Minneapolis. For a short exposition conveying the laboratory-like initiatives in India, see P. M Neurath (1962) ‘Radio farm forum as a tool of change in Indian villages’; Economic Development and Cultural Change Vol. 10, No. 3 (pp. 275-283)

⁵⁶ Das (2008)

⁵⁷ An early draft of the proposed Broadcasting Act 2003 mentioned: “community broadcaster means a broadcaster which is controlled by a non-profit entity and operates on a non-profit basis, carries programming serving a particular community including by reflecting the special interests and needs of that community, and is managed and operated primarily by members of that community”; Golam Nabi Jewel (2006) ‘Community Radio: Ready to launch in Bangladesh’; Bangladesh NGOs Network for Radio and Communication, Dhaka (November).

⁵⁸ Not only are NGOs the *de jure* entities eligible for CR stations in Bangladesh, but among these only those with at least five years of operation *and* involved in poverty alleviation or media & ICT sector---thus, closing the door for fresh entrants; see Tareq Ahmed, Alamgir Khan ‘Review of CR Policies: Bangladesh - In search of community voices’; I4D: Information for Development Vol. VII, No.10 (p17)

Groups being eligible was vigorously forwarded⁵⁹. However, at the MIB consultations, it was felt that this would be counter-productive: since one of the functions of CR was envisaged to assess and report on the local administration, and a station owned by such entities would be unable to bring an impartial perspective⁶⁰. Thus, it is clear that where conceptions of community drew on coherent juro-administrative frames, the matter has proved to be extremely contentious.

Deliberations on eligibility provoke two observations. First, media scholarship has rarely attempted to rigorously engage with the notion of community. Invariably scholars have approached this simply in terms of a 'territorially bound group with some commonality of interests'⁶¹. That this can equally be said for the audience for urban FM radio broadcasters brings us back to the conceptual impasse over 'community' in media research⁶². Secondly, the problematic of eligible entities reflects the yawning gap between the normative underpinnings of CR and the extent to which marginal groups participate in the management of these stations. For instance, the decade-old experiences of CR in Nepal show NGO and Cooperative radio stations acting in the community's interest and providing public interest programming; yet, many are observed to lack truly participatory and/or representative organisational structures⁶³. Such a deficit is antithetical to the original, community-oriented objectives of its proponents. Simultaneously, its prevalence points to a central tension of our times: viz. on the one hand there is little doubt that the shift from government to governance in recent years has created opportunities for disadvantaged groups to contribute to, if not

⁵⁹ This proposition clearly drew from the experience of the threefold institutional structure for CR prevalent in Nepal: viz. those managed by cooperatives, by village development committees and by NGOs; www.panos.org.np

⁶⁰ *Proceedings of Workshop 'Designing an enabling framework for community radio'*; Organised by Union Ministry of Information & Broadcasting, with UNDP & UNESCO, New Delhi, 2004 (May)

⁶¹ For instance, Pavarala, Vinod (2003) 'Breaking Free: Battle over the Airwaves'; *Economic and Political Weekly* Vol. 38 Issue 22. But unlike others, this rightly asserts such an articulation of 'community' having emerged against the backdrop of the rise of new social movements and non-governmental organizations.

⁶² Although this is not the place to engage with this, the more rigorous attempts to wade through this murky territory have delineated the delicate epistemological, historical and political issues involved in addressing this impasse; see Das (2008)

⁶³ Mainali, Raghu (2007) *Community Radio in Nepal: A Choice of Different Future*, Community Radio Country Study for the World Bank.

participate in, some decisions which affect their lives; however, there is equally little doubt that such groups have largely, continued to remain on the margins⁶⁴.

Moving beyond participation, much like in the CR segment, for FM stations too audiences are not simply listeners of programmes; they are members of families & households, skilled & unskilled, educated & uneducated. They constitute and are constituted by gender, age, class & language, and listen radio doing other things and in competition with other things. But unlike CR, and like national and trans-national media industry, FM stations are driven to enlarge the arena of ‘commercial speech’---finely nuanced from ‘free speech’⁶⁵. For private broadcasters, the search for an audience is not a search for a unitary psychological or social object. Thus, the idea of ‘community’ informing private FM broadcasters is neither that of ‘improvised’ community---as with, say, farm radio in the era of developmentalism in India---nor purely ‘interpretative’, as with CR advocates. Rather, it conveys the third type noted in the construction of ‘community’: the ‘embedded’ community⁶⁶. This typology lends a sharper lens to view the trajectories of various advocacy practices by the proponents of FM and CR. Such sharpness will be helpful further on in this paper in distinguishing their advocates’ seemingly common invocation of public interest while furthering their divergent objectives.

Trajectories of Advocacy

⁶⁴ For a more recent writing, see Marilyn Taylor (2007) ‘Community Participation in the Real World: Opportunities and Pitfalls in New Governance Spaces’; Urban Studies Vol. 44, No. 2 (Feb.) pp. 297-317. Noteworthy here is the belief that Governmentality Theory offers both, an enhanced explanation of state power’s persistence despite increasingly devolution and a fruitful approach to grasp the possibility of ‘active subjects’.

⁶⁵ This vital distinction was emphasised in summing up the crisis of representation catalysed by the initial phase of deregulation in television; see, P. Shields & S. Muppidi (1996) ‘Integration, the Indian state and STAR TV: Policy and Theory Issues’; International Communication Gazette Vol. 58 No.1 (pp.1-24) p.19

⁶⁶ Das (2008)

Having introduced the stakeholders and outlined their oft varying, oft complementary rationale for private FM and CR stations, let us now follow the two trails of advocacy launched by their principal stakeholders.

VOICES FROM CORPORATE INDIA

In 2002, a little over a year after the first FM station got operational, broadcasters began suggesting a migration from licence fee to revenue sharing model; they claimed that since their revenues were not adequate, the high license fee was not justified. In April 2003, The Radio Group---as the AROI was then known---requested the MIB to relax their license fee payment, lower entry fee and evolve a migration package for existing stations. Subsequently, supported by their financial reports showing losses, they called for a task force with representation from industry and government to look into framing an industry-friendly policy guideline. Expanding the canvas of advocacy, the very next month five FM players made a joint representation to the Union Law minister on licensing fee structure, since by then the matter was under its purview. This strategy bore success, as government constituted the Radio Broadcast Policy Committee (RBPC) under the chairmanship of the FICCI head in July 2003⁶⁷. Its Report in November 2003 recommended migrating to the ‘revenue share’ model, permitting the broadcast of news and current affairs programming and a cap of 26% on FDI, including that on foreign debt funding, NRI and overseas corporate bodies).

Worried about their bottom-line towards the end of the financial year, on 11th February 2004 five broadcasters submitted a representation to the government to defer their Annual License fee until the RBPC’s report emerged and Government took a decision on its implementation. Since this issue was by now intimately linked with the recommendation on Phase II licensing, towards which TRAI was preparing a consultation paper, TRAI issued an

⁶⁷ Its members included a representative from a leading corporate law firm, a veteran radio-host, a nominee of the other apex industry body CII, the head of the trade body of the software industry NASSCOM, and government officials dealing with broadcasting and spectrum allocation.

interim recommendation on 5th April 2004 giving the option to existing/Phase I licensees to defer their next instalment of fees⁶⁸. In April 2004 the Entertainment Network (India) Limited---the FM radio arm of the newspaper conglomerate *The Times of India*---moved a Mumbai court for a stay on encashment of bank guarantee in case of non-payment of licence fee⁶⁹. Upon their plea being refused by the court, and not wanting to lose momentum, five FM stations took their case to the industry tribunal, TDSAT. The tribunal ruled that the companies had to pay four months licence fee as an interim measure⁷⁰. Having exhausted both the Court and sectoral Tribunal, on 22nd April these broadcasters wrote to the MIB to hold in abeyance the payment of the annual licence fee in line with the interim recommendation of TRAI⁷¹. In June, FM companies made a representation to MIB for a faster implementation of the RBPC's recommendations; government did not give any assurance on the matter and asked the companies to pay the licence fee as per the TDSAT order⁷².

TRAI's consultation paper on FM, released in August 2004, provided a glimmer of hope as in January 2005 the Delhi High Court asked the government to clarify the time frame within which migration to a revenue-sharing regime will be implemented. Yet, the same court dismissed petitions filed by three private operators to direct the government to arrive at a decision on TRAI's recommendations. Illustrating the new institutional framework of media governance, the Court suggested the Telecom Dispute Settlement Appellate Tribunal (TDSAT) to be the apt forum to address such issues.⁷³ In March 2005, the broadcasters moved TDSAT, arguing that government inaction or delay on TRAI's recommendations was

⁶⁸ TRAI (2004) 'Consultation Paper On Licensing Issues Relating to 2nd Phase Of Private FM Radio Broadcasting'; Consultation Paper No. 8 /2004, Telecom Regulatory Authority of India, New Delhi, (April 14) p.4.

⁶⁹ <http://www.indiantelevision.com/headlines/y2k4/apr/apr230.htm>

⁷⁰ <http://www.indiantelevision.com/headlines/y2k4/june/june71.htm>

⁷¹ <http://www.indiantelevision.com/headlines/y2k4/apr/apr230.htm>

⁷² <https://mail.sarai.net/pipermail/cr-india/2004.../006540.html>

⁷³ www.indiantelevision.com/headlines/y2k5/feb/feb15.htm

resulting in financial losses⁷⁴. Buying the argument, TDSAT set a deadline of 26th April for the government to come up with an answer⁷⁵. In April, TDSAT passed an order directing the government to finalise its views on the RBPC report by early July⁷⁶.

This course of events indicates that during the early years of deregulation of radio, Litigation and Dispute Settlement were the preferred instruments of private broadcasters to protect, and further, their interests. This strongly mimics the institutional trajectory of deregulation in Mobile Telephony during the mid 1990s⁷⁷. However, unlike in Telephony, the Courts predominantly stuck behind the government on substantial matters---perhaps reflecting a latent coherence of opinion towards Radio---while pressing the Executive to resolve matters in a limited timeframe.

Having successfully steered the governance regime to a revenue sharing model, we see a major shift in the focus of advocacy. In August 2005, a FICCI delegation met the Union I&B Minister to implore changes in FM guidelines, including modifications in eligibility criteria; norms for calculation of revenues; time frame for transfer of shares; and co-location of transmission facilities, permitting mergers and acquisitions after three years of operation instead of five, and allowing airing of News on a pilot basis. This shift in advocacy got a shot in the arm after broadcasters bid optimistically for licenses in the II Phase, in January 2006. At FICCI's annual media industry meet, 'Frames', in March 2006, broadcasters started pushing on other fronts: viz. permitting multiple frequencies, airing news and current affairs, and a listenership measurement system.

⁷⁴ The petitioners, Radio Today Broadcasting Ltd (Red FM), Music Broadcast Pvt. Ltd. (Radio City) and Entertainment India Network India Ltd. (Radio Mirchi), also sought setting aside a 17th November 2004 order of TDSAT to deposit one third of their licence fee for the year within two months; <https://mail.sarai.net/pipermail/cr-india/2005.../006964.html>

⁷⁵ <https://mail.sarai.net/pipermail/cr-india/2005.../006964.html>

⁷⁶ <http://www.indiantelevision.com/headlines/y2k5/apr/apr325.htm>

⁷⁷ A lucid account of deregulation in Telecom is, Pradipta Bagchi (2000) 'Telecommunications Reform and the State in India: The contradiction of Private Control and Government Competition'; *CASI Occasional Paper #13*, Center for the Advanced Study of India, University of Pennsylvania, Philadelphia (December). For a deeper examination of the first decade of deregulation in the communication industry as a whole, see Stephen D. McDowell (1997) *Globalization, Liberalization and Policy Change: A Political Economy of India's Communications Sector*; St. Martin's Press, New York.

After the bids in the II Phase were announced, in November 2006, advocacy got centred around two issues. First, as FICCI's memorandum to the MIB in June 2007 reflects, the rationale for allowing news underwent a fresh spin: arguing that radio was 'the medium of the under privileged', it pointed out that this was the sole mass media barred from news. Secondly, FDI norms came under intense debate: not only was radio in general subjected to the lowest FDI cap amongst all News media but the FM segment additionally suffered from unequal FDI stipulations vis-à-vis Satellite radio. Even AROI, normally focussing on other issues, called for a higher FDI cap, since that for newspapers and TV News-channels was beyond 25%. This was an integral element of the shift in priorities of industry-advocates: viz. from highlighting license fee and revenue sharing issues, to vocalising financial and corporate issues of the radio industry, as typified in mature markets.

Secondly, resolving rights between the radio and music segments of the media industry received a heightened importance. In the post RBPC years, while FICCI was spearheading structural aspects and protocols of licensing, AROI canvassed around negotiating for better deals on music rights, besides unifying all FM broadcasters⁷⁸. Nevertheless, the FICCI Radio Forum⁷⁹ sent a memorandum to the MIB in December 2007 to mediate on the issue of music rights. This was a clear indication of the hesitancy, or inability, of the pan-sectoral entity, FICCI, to arbitrate the clashing interests between constituent, sectoral stakeholders. On its part, AROI had been under pressure from the trade body of the music industry, IMI, to arrive at mutually beneficial norms for licensing and copyright in recorded music. In early March 2006, AROI petitioned the government on rationalising music rights fee; on 29th March, it formed a committee to look into music royalty, alleging the Phonographic Performance Ltd. (PPL) and other music rights organization were overlooking the fact that a uniform rights fee

⁷⁸ AROI was under mounting pressure from the smaller, regional FM broadcasters who were inching towards finalising a separate consortium to compete with the 'majors' by collectively tapping the national advertising market. Not surprisingly, in January 2008, AROI pressed the government to encourage private FM into even smaller towns---to win over large number of existing and potential small/standalone stations.

⁷⁹ In July 2006, the 'FICCI Radio Forum' was launched as an umbrella organization for FM broadcasters to lobby for suitable policy frameworks.

could not be applied on small and big radio operators alike. In December 2007, AROI pleaded with MIB that the existing formula of FM operators paying 15 to 50 percent of their annual revenue as music royalty fees, was above the global benchmark of 2 to 3 percent. Thus, despite demanding greater deregulation from the state, AROI---akin to FICCI---was forced to revert to the state to mediate inter-sectoral issues.

CAMPAIGNS BY NGOS

Much before deregulation in radio was thought of, and just after the initial deregulation in television, a group of policy planners, media professionals and NGOs gathered in Bangalore to reflect on the relevance and possibilities of CR in India. This meeting in September 1996 was close on the heels of the landmark 1995 SC judgment on ‘airwaves being public property’. The ensuing ‘Bangalore Declaration’ formed the inaugural basis of advocacy on CR⁸⁰; and a coalition of NGOs played mid-wife to ‘CRF’, the national campaign group formed to act as a nodal agency for “democratising radio”⁸¹.

Two months after the FM frequencies were auctioned to the first set of private broadcasters, UNESCO sponsored a workshop in Hyderabad, and in the rural hinterland of Pastapur in July 2000. The more concrete ‘Pastapur Declaration on Community Radio’ was framed to urge the government to create a three-tier structure of radio broadcasting in India--- viz. State-owned public radio (AIR); private commercial, FM radio; and, non-profit CR. And the latter was distinguished by three elements: non-profit making, community ownership & management, and community participation⁸². The next month, Deccan Development Society (DDS) established a radio station and became the first to apply for a radio license to the MIB---where no policy protocols existed!⁸³ In June 2001, MYRADA, another NGO applied for a

⁸⁰ Bangalore Declaration on Radio (1996) ‘Consultation on Community Radio and Media Policy’, VOICES, Bangalore (Sept.)

⁸¹ <http://www.cforum.in/archives/4>

⁸² Noronha, F. (2000) ‘Who’s Afraid of Radio in India?’; *Economic & Political Weekly* September 16.

⁸³ We have been reminded that in some cases initiatives to develop alternative media necessarily require an engagement with

license to set up a CR at Budhikote, about 100 km from Bangalore, Karnataka. Although like DDS this too failed to evoke any response from the government⁸⁴, by March 2003 NGOs working in the village of Budhikote had managed to set up a community audio project, managed by its members. Led by the NGOs, VOICES and MYRADA, and supported by UNESCO the audio service 'Namma Dhwani' (our voice) was piped out in collaboration with the local cable operator, which enabled 200 of the 650 village households to listen to programmes on their TV sets⁸⁵.

It is extremely noteworthy that, unlike in the FM segment, some NGOs started services before specific norms were in place, albeit the 'Namma Dwani' experiment did not flout wider norms in the broadcasting sphere⁸⁶. This along with other experiments in community audio projects---at once signifying an intervention and advocacy---reveal a distinct understanding and usage of 'radio' as a medium⁸⁷. Besides demonstrating divergent imaginations of radio, these practices convey divergent compulsions of actualising CR as a technological enterprise. It is in these contexts that fresh imagination emerged from a proposition to combine Internet and Satellite technology that---instead of defying---bypass legal restrictions⁸⁸.

But the guidelines on CR issued by the government in 2003 came as a disappointment for NGOs, as it restricted licenses to 'well-established' educational institutions'---who themselves were restricted to broadcast News and Advertisements. This led NGOs to direct

the policy sphere; Philip M. Napoli (2007) 'Public Interest Media Activism and Advocacy as a Social Movement: A Review of the Literature', *Report prepared for the Media, Arts and Culture Unit of the Ford Foundation*, Donald McGannon Communication Research Center, Fordham University, New York (Draft Date: April).

⁸⁴ In January 2002, 16 months after its DDS's application for CR license, came a reply from the Government that it did not have a policy of granting licenses to NGOs or charitable institutions for setting up and operating Radio Stations.

⁸⁵ Khare, Pankaj (2004) 'I can hear you loud and clear - Community Cable Audio "Namma Dhwani"': *A Quarterly of the Commonwealth Educational Media Centre for Asia* Vol. 9 No. 3 (pp.9-10) Those households which did not own TV sets received the cable channel on modified radio sets, sold to them at subsidized rates.

⁸⁶ This prevents the case being viewed as a pirate station, akin to other experiences in Asia; see, Shun-Chih Ke (2000) 'The Emergence, Transformation, and Disintegration of Alternative Radio in Taiwan: From Underground Radio to Community Radio'; *Journal of Communication Inquiry* Vol. 24, No. 4 (pp.412-429)

⁸⁷ A nuanced critique of a global definition of the meanings and uses of 'radio' finds its way in, Jo Tacchi (2000) 'The need for radio theory in the digital age'; *International Journal of Cultural Studies* Vol. 3 No. 2 (pp.289-298)

⁸⁸ Mehta, A. (1999) 'Promoting the Use of the Internet for Community Radio', *Paper presented at international conference 'Radiocracy'*, Cardiff University (26-28 Nov.)

their advocacy at opening CR specifically for community based groups. From February through October 2004, NGOs engaged in consultations on CR Policy; in parallel an electronic initiative was launched in June 2004 as a platform for news updates⁸⁹. All these efforts were synthesized in November 2004, when NGOs submitted recommendations to TRAI towards its long-promised consultation paper on CR. Released in Aug 2004, the CP drew heavily from formulations of draft CR policy prepared jointly by the NGOs in May.

A little over a decade after the landmark Supreme Court judgment on airwaves, in December 2005 a petition by the Community Radio Forum was signed by more than 50,000 people from around the country and sent to the Prime Minister urging changes in its current policy⁹⁰. Nearly a year later the massively revised CR policy was announced, on 16th November 2006. The spokesperson of CRF was jubilant that India becomes the first country in South Asia to have a separate policy for community radio⁹¹. But there was dis-satisfaction among some members who, while pointing at two shortcomings, insisted a policy was no substitute for legislation⁹².

In February 2007, Community Radio Forum was registered and the first annual conference of CRF-India was held at New Delhi. Bringing together NGOs, academics, Government officials and Funding organizations, the meet discussed opportunities and hurdles likely to be faced by those setting up CR station. Towards mainstreaming the debate, UNESCO together with PLAN International, CARE-India and One World South Asia, organized another, more technical meet at the sidelines of BES EXPO '07, an International

⁸⁹ www.communityradionetwork.org

⁹⁰ They found the existing 'Community Radio Policy' discriminatory as it barred community members, community based-organizations, non-government organizations and other civil society groups from licenses to operate low power radio stations; www.petitiononline.com/comradio

⁹¹ In March 2008, Bangladesh announced its Community Radio Installation, Broadcast and Operation Policy. Although Nepal's *Radio Sagarmatha*, at Lalitpur, was the first CR station in South Asia in 1997, and subsequently over 150 stations have been granted license from government, there is no separate policy and law to govern it--existing instruments are deployed for both, community and commercial radio stations. A detailed dossier of the experiences of a decade of FM and CR practices in Nepal are in, Ian Pringle, Bikram Subba (2007) *Ten Years On: The State of Community Radio in Nepal*, A Report prepared for UNESCO.

⁹² Subramaniam Vincent, CRF member and co-founder & editor at 'India Together' and 'Citizen Matters'. The shortcomings were: prohibition of news and current affairs, stipulation to broadcast only at 100 Watts, and an antenna height of 30m may work better for the large cities; furthermore, it was rightly accentuated.

Technological Event hosted by the Broadcasting Engineering Society of India (BES). On 6-7 March, 2007 the MIB with UNESCO organised a similar technical workshop for potential Community Radio Operators; building on this, in April, UNESCO promised \$ 60,000 from its International Programme for the Development of Communication towards establishing 10 CR stations, especially in tribal belts. This illustrated a mode of funding non-commercial radio in contrast to that envisaged by the RBPC's Report and TRAI's consultation paper. Keeping in mind the Government's lofty intention to establish 4000 community radio stations by 2008, UNESCO also brought out a technical manual "Community Radio: A User's Guide to the Technology" for potential CR operators.

But UNESCO was not the only entity conducting national-level advocacies. Throughout 2007-08, MICCI⁹³ organised seminars in several parts of the country to explore aspects of Community Radio and frame guidelines for better execution and sustainability of CR ventures. Besides national-level initiatives, there were regional ones as well. In July 2007, Panos South Asia held a workshop in Shillong (Meghalaya) to increase awareness in the Northeastern states about CR, and reflect on successful existing models, such as those in Nepal. Similarly, for NGOs working in Andhra Pradesh, the Deccan Development Society, in association with CRF-India and assisted by UNESCO, held a residential workshop on 'Operationalising Community Radio' in October 2007.

In 2008 February, CRF organised its II annual conference in Bangalore, and was followed by a two-day, hands-on workshop "Technology for Radio" by VOICES---part of the gradual shift in such meets from deliberating on values to capacity-creation. At its III annual conference in February 2009, CRF transformed its structure from a loose network to a formalised organisation, with a core team of representatives from many states. Evaluations of experiences in Nepal point to reflect similar trends in the emergence of the Community Radio

⁹³ The non-profit *Media Information and Communication Centre of India* (MICCI) is mainly devoted to organizing seminars, workshops, research and publications; its Trustees include leading academicians, bureaucrats and communication experts.

Support Centre (CRSC), and the Association of Community Radio Broadcasters (ACORAB) who respectively specialised in capacity-building and advocacy⁹⁴. Going a step further, CRF planned a consortium of existing CR stations to collectively negotiate advertising rates with agencies. This signified CRF's preparation for a dialogue with 'the market' in a manner strikingly similar to that by AROI to collectivize small FM broadcasters and negotiate with advertising agencies. These separate initiatives---despite their distinct social contexts---bring to light the co-evolution of instruments of advocacy and an advocacy group in India⁹⁵. They illustrate how representative bodies are able to incrementally devise mechanisms to sustain their relevance, and thereby legitimate themselves as key political actors.

Contrapuntal Pulls

In the last part of this paper, we bring into greater relief the counteracting currents in advocacy, within and between the FM and CR segments of radio. While our narrative hitherto has touched upon these variations that played out amongst stakeholders, as also over the duration of the deregulatory processes, attention now will be directed divergence on select, specific issues.

While discussing modes of funding to support non-commercial channels, TRAI was advocating a policy option considered akin to the 'USO Fund' in the Telecom Sector⁹⁶---which, inter alia, was seen to contribute to content diversity in general. But in the same breadth, TRAI hinted that the government---and not the public broadcaster---would be the

⁹⁴ Pringle, Subba (2007) *op cit* p.17

⁹⁵ This understanding of 'co-evolution' borrows and builds on its usage in an analyses of the Internet in China; it is argued that while the technology facilitated new possibilities for citizen participation, civil society facilitated the proliferation of the Internet by providing the necessary citizens and citizen-groups for interaction; see Guobin Yang (2003) 'The Co-Evolution of the Internet and Civil Society in China'; *Asian Survey* Vol. 43, No. 3 (pp.405-422)

⁹⁶ In Telecom, the NTP'99 had laid down specific targets for the Fund's usage. The Fund's size was to be 5% of the Adjusted Gross Revenue; including this levy as a part of license fees provides industry with greater certainty.

appropriate entity to manage the proposed fund---thus raising serious questions of the Fund's autonomy. On its part, RBPC had suggested in every city, certain frequencies be reserved for niche channels, and be tendered separately with a low reserve fee and low revenue share percentage⁹⁷. Similarly, the mechanisms to fund CR attracted differences: some suggested this be explored but not be part of the initial policy framework, others held government funding could infringe upon the autonomy of CR⁹⁸. Despite the active and constructive role of donor agencies in over a decade of advocacy, stakeholders were cautious in endorsing foreign funding for CR. Lastly, most NGOs argued for limited advertising time being vital to sustain CR stations⁹⁹; this was surprising, as the wider interventionist aims of some NGOs included challenging consumerism in, and through, the media. Taking the pragmatic approach, in 2009 CRF started to mould a consortium of existing CR stations to collectively negotiate advertisement rates with agencies---thus preparing for a dialogue with the wider, commercial milieu of deregulated radio.

NEWS AS CONTENT

Financial viability apart, the more substantial variance, and even ambiguity, is reflected in FM and CR stakeholders' approach to the crisis in content. Restrictions on News in both segments stemmed from government concerns of not just increase in the number of independent sources but its inability to monitor many such local, low-power, language-based radio stations. In its consultation paper on II Phase of FM, TRAI made a feeble defence of the government: "FM mode is best utilized for music broadcast as contrasted with talk broadcasts"! However, in same document it chose to reason

⁹⁷ Report of the Radio Broadcast Policy Committee <http://www.mib.nic.in/rep-radiobroad.htm> (pp.70-71)

⁹⁸ In Sri Lanka, all CR stations in operation are owned by the state-run Sri Lanka Broadcasting Corporation.

⁹⁹ Caveats included restrictions on words and minutes; mandating Government ads through Community Radio wherever such stations exist; and the rather ambiguous use of Underwriting instead of advertising (In underwriting, sponsors are unable to own the slot of airtime but the broadcasters mention the names of organisations underwriting the program/station and what services/goods they offers), Comment by Subramaniam Vincent in CR Mail List, Sept 10, 2004; <http://mail.sarai.net/pipermail/cr-india/2004-September/006653.html>

*“Permission to broadcast News & Current Affairs would serve as an important means to promote local content and accord local flavour to the channels. The benefits would be even larger, when these operators are permitted networking, as then a judicious mix of national, regional/ provincial, local news could be provided”.*¹⁰⁰

The regulator reminded the government that satellite radio services in India, which broadcast news, are not required to pay any license fees, as they up-link from outside the country. Perhaps consequently, in its Recommendations for the II Phase, while arguing News would boost the viability of FM stations, it suggested any review of restriction should consider both, policies in other media segments and cross-media implications of news on radio.

Responding to TRAI’s views in CP Phase II, although all stakeholders endorsed permitting the broadcast of news, some had reservations with regard to news of political nature; a consumer suggested a combination of 80% local news and 20% national & international news be stipulated, to retain the local bent of FM stations¹⁰¹. The RBPC was forceful in making a case for FM licensees to broadcast News, on various counts. First, the continued bar was at variance with policies of news on television, print and internet; moreover FM channels of AIR and private, Satellite radio---currently one, foreign entity¹⁰²---are allowed to broadcast national and international news. Second, because radio was envisaged as a local medium, the most important local content is indeed news---whose broadcast will additionally contribute towards meeting a central aim of privatisation i.e. diversity of content. Thirdly, and as per accepted legal propositions, the possibility of abuse

¹⁰⁰ TRAI (2004) ‘Consultation Paper On Licensing Issues Relating to 2nd Phase Of Private FM Radio Broadcasting’; Consultation Paper No. 8/2004, Telecom Regulatory Authority of India, New Delhi, (April 14) p.41.

¹⁰¹ Comment by Sajan Venniyoor (Professional Radio Broadcaster with All India Radio) in CR Mail List, May 5, 2004; <http://mail.sarai.net/pipermail/cr-india/2004-May/006434.html>

¹⁰² Worldspace, the sole satellite radio player, offers over 40 channels of national & international entertainment, news and music, across 150 cities of India.

or difficulties in monitoring news were not potent grounds to negate the exercise¹⁰³. Subsequently, in 2007, FICCI adopted the discourse of equity: i.e. news on radio caters to a large section of rural and urban population who are unable to read newspapers and/or buy TV sets. In its consultation paper on the III Phase of FM radio, TRAI mooted a middle ground of FM stations being permitted to broadcast the exact news content aired by AIR or Doordarshan. Going a step further in its Recommendations for the III Phase, TRAI called for FM stations to broadcast news content from UNI, PTI and other authorized news agency without any substantive change in the content. However, while it advocated enhancing the limit of FDI from 20% to 49% for stations airing entertainment, for those that may be permitted news in the future, the enhancement was capped at 26%. After government maintained its restrictions on news and news-sources---while allowing to air political ads in 2008---TRAI proposed that expansion of sources, and the scope of content to be treated as news, be reviewed after three years later---thereby, keeping the momentum alive.

AROI was quick to point out the inflammatory reportage occasionally seen on TV News, which made a mockery of government “concerns” on allowing news on radio. Quoting its initiative to pull up the host of a Delhi FM station for derogatory remarks against people from a certain region---thus championing self-regulatory systems in the FM segment---it did not forget to underscore that this measure was triggered not by government monitoring but ‘the alert public’. Addressing the inability of the government to monitor news on radio, it reminded the government that FM broadcasters across the country could be tracked on the Internet, sitting in Delhi. Lastly, it emphasised that since the entire license fee is deposited in advance, the threat of cancelling the license and retaining the fee would be a significant financial deterrent for responsible news. Consequently, AROI found no reason why TRAI’s proposal of general radio frequencies being allowed to air 6-7 minutes of news an hour, and

¹⁰³ RBPC reiterated the Supreme Court had specifically observed in for broadcast that “the wider range of circulation of information or its greater impact cannot restrict the content of the right, nor can it justify its denial”.

the creation of a category of 'news channels', separately registered with the government, be given the green signal.

The cumulative response of CR activists on News was unexpectedly varied. Some were satisfied with only news on weather-related warnings; others found the restriction on CR acceptable as long as it was also applicable to FM¹⁰⁴. Still others regarded news on CR likely to be more in tune with community needs than that received from private stations; simultaneously, there was surprise that the existing bar on news---likely to be termed as 'unreasonable restriction' if challenged in court---was left unchallenged by private FM operators¹⁰⁵. The more candid ones opined:

*“Commercial radio has had 5 years at least to fight the ban on news and current affairs, and they have shown no inclination to do so. That does not surprise me. Commercial organisations do not like to oppose the government, to whom they have to repeatedly go for all sorts of permissions, connections, help.”*¹⁰⁶

Under current regulatory and financial frameworks, CR stations can neither air News nor afford commercial music. This is undoubtedly a major bottleneck. However, an equally if not greater bottleneck is created by implicitly assuming such programming types constitute the totality of desirable content on CR¹⁰⁷. For one, 'News' and 'Music' convey the persistence of inherited understanding of rather hermetic programme types. Furthermore, emphasising the restrictions on one and the viability of the other brings CR advocates discomfoting proximate to the discourse of commercial FM broadcasters; the discomfort is amplified when we recall that a key rationale of CR was to respond to the specific needs of local audiences. All this severely constrains the imagination of the permissible, and possible, canvas of

¹⁰⁴ TRAI (2004) *Recommendations On Licensing Issues Relating to Community Radio Stations to the Government*; Telecom Regulatory Authority of India, New Delhi (Dec 9.)

¹⁰⁵ Comment by Subramaniam Vincent in CR Mail List, Sept 10, 2004; <http://mail.sarai.net/pipermail/cr-india/2004-September/006653.html>

¹⁰⁶ Comment by Arun Mehta in CR Mail List, Nov 20, 2006; <http://mail.sarai.net/pipermail/cr-india/2006-November/007766.html>

¹⁰⁷ One instance of this is encapsulated in the question: "Why should a community want to listen to a radio station that neither entertains nor informs?"; Danny Geevarghese (2008) "Community radio law- Lost in transmission"; Information for Development Vol. VII, No.10 (p.14)

programming genres on CR. Fortunately, CRF members interpreted the restrictions to cover only “political and electoral news”, giving room for CR to undertake other kinds of reportage. Since definition of what constitutes 'developmental and social programming' and not 'news and current affairs programming' might entail a grey area, this was seen to provide latitude to craft creative programming, without “worrying about New Delhi”¹⁰⁸.

DIVERSITY & CONCENTRATION

Much like News, addressing the inter-related phenomenon of content diversity and market concentration were equally contentious. In the I Phase of FM, TRAI limited licensees from owning multiple frequencies in the same city as much to encourage content diversity as to check possible oligopolies. In contrast, the RBPC believed if a single entity owned more than one frequency it will be compelled to differentiate its stations---a scenario not necessarily achieved simply by allowing more licensees within the same city. To encourage diversity in a manner that bypasses the concerns of oligopoly, the RBPC made a few proposals: viz. the number of frequencies held by an entity in a city be capped at 3, or 33% of the total licenses available there; mandating distinct content plans for each frequency bid by an entity within a city; and, capping the total frequencies an entity could hold nationally at 25% of the frequencies tendered during one phase of auction. It also offered that the right of the Government or Regulator to break up a monopoly be included in the terms of licensing, so that chances of litigation are minimised.

NGOs pounced on this, not only because it paved the way for big broadcasters to own one third of the stations in a city but, it refused to consider concentration through the lens of cross-media ownership¹⁰⁹. Recognising multiple licenses in a city may provide a broadcaster

¹⁰⁸ Subramaniam Vincent <http://www.indiatogether.org/2006/nov/sbv-cradio.htm>

¹⁰⁹ Comment on RBCP recommendations by Sajan Venniyoor in CR Mail List, Nov 21, 2003; <http://mail.sarai.net/pipermail/cr-india/2003-November/006105.html> No single entity being allowed to own more than 20% of total licenses in a particular category (A+, A, B, C, D) of license (Phase I & II combined) was also suggested.

to have stations in different languages, TRAI's consultation paper on the II Phase of FM added nominal safeguards---viz. Shareholding restrictions and enumerations on absolute numbers or percentage of licenses¹¹⁰. But it did make a point of the RBPC benchmarks not preventing FM broadcasters, despite a 25% cap nationally, to exercise dominance in specified cities¹¹¹. However, in its recommendations on the II Phase in August 2004, TRAI sought to strike a balance by emphasising the conjunction of both instruments---viz. dispersed ownership and multiple licenses---to secure variety in programmes within a city¹¹². While it endorsed the national cap, TRAI voiced doubts over the efficacy of this instrument in an isolation; for, it was categorical that the preferred approach was a conscious policy on cross-media ownership---within which the 25% national cap be integrated¹¹³.

Despite favouring privatisation in general, government found TRAI's standpoints on multiple licences and national caps likely to create monopolies, and therefore unacceptable. But in its next recommendations of November 2004, TRAI defended itself by clarifying it was aware that the 1995 SC judgment sought preventing unregulated growth of monopolies under the garb of the guaranteed right of free speech. TRAI continued to maintain that its proposals, in line with RBPC, contained sufficient checks on monopolies, albeit it could lead to "some concentration of market share, which is not the same as monopoly"¹¹⁴! Awkwardly defending multiple licences---without which it failed to see content variety being met---TRAI again underscored that the control of monopoly through sectoral restrictions was not the apt

¹¹⁰ TRAI (2004) 'Consultation Paper On Licensing Issues Relating to 2nd Phase Of Private FM Radio Broadcasting'; Consultation Paper No. 8/2004, Telecom Regulatory Authority of India, New Delhi, (April 14), p. 30

¹¹¹ In U.K. a points system was used to check dominance; its guidelines on ownership mentions: "Currently, no one person is permitted to hold two or more licenses for national or local radio services where the total number of points attributable to these services exceeds 15% of the total number of points available in the system.

¹¹² Considering both arguments, TRAI proposed limited restrictions on ownership: the number of licenses that one entity can hold in one city will not be more than 3 or one third of the licenses of that city whichever is less---but only in cities where there are at least 6 licenses including the Phase I licenses

¹¹³ TRAI (2004) *Recommendations On Licensing Issues Relating to 2nd Phase of Private FM Radio Broadcasting*, Telecom Regulatory Authority of India, New Delhi (Aug.), p. 33

¹¹⁴ TRAI (2004) *Recommendations on reference made by the Ministry of Information & Broadcasting regarding issues relating to Phase-II Private FM Radio*, Telecom Regulatory Authority of India, New Delhi (Nov), p. 14

method, another reminder of the need to look at cross-ownership¹¹⁵. But the government's final Policy Guidelines on the II Phase of FM did not permit multiple licenses in a city, and stipulated a cap of 15% of all allocated channels in the country. Furthermore, to check the narrowing of diversity, it stipulated not more than 25% of programming outsourced by a station be produced by a single content-provider. This essentially meant that the regulator and government, in equal measure, refrained from adopting instruments of cross-media ownership---thereby steering the diversity debate away from, and at the cost of, the concerns of media concentration¹¹⁶.

After four years of private FM, TRAI re-drew attention to industry's desire to review city and national caps¹¹⁷. The sectoral trade body, AORI, found the very idea of a national cap redundant after Parliament passed a wider Competition Act containing norms to check market concentration across all industries. On its part, the apex trade body, FICCI, re-articulated the issue of media concentration as not one of dominance but of the abuse of dominance¹¹⁸. Leading broadcasters like 'Radio Mirchi' stressed the dual benefit of multiple frequencies: in a milieu of financial fragility, this would facilitate co-owned stations to share most operational costs; and, it carried the potential of an efficient, market instrument to promote diverse programming¹¹⁹.

In contrast, there were emphatic calls by smaller broadcasters to restrict the accumulation of interests so as to encourage fresh stations to emerge---which, in turn, hoped to check monopolies and possibly, promote diversity. Other stakeholders argued for non-market instruments to govern diversity, and bestowed faith in mandating a content plan for

¹¹⁵ At the same time, it suggested this issue to be de-linked during Phase II, so as to not delay formulation and roll out of the II Phase of FM.

¹¹⁶ If during the currency of the permission period, government policy on cross-media ownership is announced, the permission holder shall be obliged to conform to the revised guidelines within a period of six months from the date of such notification.

¹¹⁷ TRAI (2008) 'Consultation Paper On Licensing Issues Relating to 2nd Phase Of Private FM Radio Broadcasting'; Consultation Paper No. 1/2008, Telecom Regulatory Authority of India, New Delhi (Jan 8).

¹¹⁸ *ibid.* p. 22

¹¹⁹ TRAI (2008) 'Comments on issues related to consultation Paper on 3rd Phase of Private FM Radio Broadcasting'; Telecom Regulatory Authority of India, New Delhi (Jan 22)

each frequency in a city, irrespective of whether these were held by one or different entities. Drawing on international experience, some of these firms drew attention to the experiment of a company owning multiple stations within a city in USA being assessed as a failure¹²⁰. Instead two concrete mechanisms to spur diversity without permitting multiple frequencies were proposed: Financial incentives in the form of differential OTEF, or different percentages of revenue share, for niche and mainstream channels; and, Auctioning Phase-3 stations only after specifying the genre of broadcast, as in UK¹²¹.

Disregarding the apprehensions and suggestions of divergent voices, TRAI's recommendations for the III Phase of FM, February 2008, questioned the empirical and normative fundamentals of the existing policy regime by stating that the "apprehension of abuse or monopoly of more channels is baseless"¹²². It found FICCI's proposal of casting obligations of different formats of content on multiple frequency-owners had found consensus among most stakeholders. What it failed to spotlight was that the different formats proposed---viz. Hindi Contemporary, English, Classical music, Retro (10 years old), Hindi popular etc.---pertained to formats of music alone, and thus irrelevant to other kinds of programming. Continuing to play the voice of the major FM broadcasters, TRAI pointed out

..... since allocation of the frequency is through bidding, the choice to select the program and any mandating in reference to the content may be discriminatory.....An imposition of limit only throttles the competition, especially when FM channels are allocated based on open bid. Moreover the success of auction and availability of channels are not determinable as one time exercise. Therefore the ceiling of 15% may not work in a fair manner.

¹²⁰ This was said to congenitally fail in India as well, since broadcasters' adopted a strategy of not investing in programming but trimming costs, and competition under advertiser-support tending to result in excessive sameness.

¹²¹ TRAI (2008) 'Comments of Clear Media (India) Pvt. Ltd.' to Consultation Paper on 3rd Phase of Private FM Radio Broadcasting, Telecom Regulatory Authority of India, New Delhi (Jan 22).

¹²² TRAI (2008) *Recommendations On Licensing Issues Relating to 3rd Phase of Private FM Radio Broadcasting*, Telecom Regulatory Authority of India, New Delhi (Feb.) p.46.

Government observed that although the bidding process itself may ensure a greater number of operators coming into play when licenses are granted, the possibility of smaller stations being subsequently taken over by big houses is not ruled out¹²³. Moreover, the removal of ceilings may deter small operators to enter the radio business. Emphasising that the essence of democracy lay in the presence of a large number of voices, government also found the removal of 15% limit not being in line with the approach being simultaneously considered for the entire broadcasting sector in the draft Broadcast Bill¹²⁴. It is noteworthy that on the matter of multiple licenses, government eased the cap from 33% to 40% of the total channels in a city subject to a minimum of three different operators plying. While such a mode of dispersing ownership brings home government's desires to protect, however partially, small broadcasters, it equally conveys a grossly narrow understanding of public interest.

Conclusion

There is compelling evidence to infer that the deregulation of radio in India does not represent the oft-touted thesis of the 'retreat of the state'. A more nuanced understanding suggests this be grasped in terms of 'revisions in the priorities of the state'¹²⁵. It is here that the two vectors differentiating our media environment that were highlighted at the outset--- viz. rise of new institutional actors and the techno-commercial complexity of our media ecology---gain tremendous importance at both, the empirical and analytical levels. Consequently, rather than making a policy framework unnecessary, the trajectory of

¹²³ Gol (2008) 'Views of the government on TRAI recommendations on 3rd phase of FM radio broadcasting'; Government of India, New Delhi (Nov 18) p.7

¹²⁴ An exception was in the States of Jammu & Kashmir, North Eastern States and island territories, where incentives to commence and/or expand private FM compelled government to allow stations allocated in these areas to cross the 15% limit; *ibid*, p. 7

¹²⁵ An emphatic, early proposition of this runs through Patnaik, P. (1995) *Whatever Happened to Imperialism & Other Essays*; Tulika, New Delhi.

advocacy practices constituting the deregulation of radio have reiterated the necessity of adopting a coherent set of protocols for policy formulation. Our crisscrossing narratives have periodically illustrated how these protocols---be they radically new or substantially renewed in their salience---themselves become a crucial object of advocacy.

Second, stemming from the above, we find two core sets of multiple-tensions that have marked the interwoven trajectories of FM and CR advocacy. The first is amongst the plethora of non-state actors, actively aiming to establish, and/or further, particular regimes of media governance. We note with inquisitiveness, and a degree of paradox, the specific instances where advocates of one industry-segment deploy the experiences of the other to leverage their own interests---the approaches to Non-Commercial channels by different stakeholders being one instance under spotlight. The second tension arises from the state seeking to incessantly manage its multiple compulsions: of generating revenue through rent or other means, of encouraging private and non-profit enterprises, and of maintaining minimal levels of certain irrevocable constitutionally stipulations. And it is in traversing, and balancing, these compulsions that we witness efforts by the state to gradually redefine inherited standpoints on rights, entitlements and public interest.

Advocacy for private FM broadcasting has been evidently tempered by wider discourses of neo-liberalism, for it the views commercialisation of radio as the alternative path to achieve media democratisation¹²⁶. On its part, the incremental campaign for CR drew from activism by NGOs and proponents of 'Campus Radio'. This could explain why the long gestating advocacy on CR got cradled in developmentalism, instead of a rights framework, like in South Asia as a whole¹²⁷. Nevertheless, these otherwise divergent forces shaping FM and CR advocacy are equally rooted in the conceptual frame of media reform, as opposed to

¹²⁶ A similar trend unfolded in the deregulation of TV in South East Asia; see, Junhao Hong & Yu-Chiung Hsu (1999) 'Asian NICs' Broadcast Media in the Era of Globalization: The Trend of Commercialization and its Impact, Implications and Limits'; International Communication Gazette Vol.61, No.3-4 (pp. 225-242)

¹²⁷ This observation came from participants at a workshop on 'Community Radio in South Asia' in early 2002; Frederick Noronha (2003) 'Community Radio: Singing New Tunes in South Asia'; Economic and Political Weekly May 31 (p.2170)

that of media justice¹²⁸.

Both trails of advocacy reveal, however variedly, an underlining construction of 'community': embedded in case of FM broadcasters, and interpretive as with CR advocates. Both have campaigned hard for removing crucial restrictions on News; but in the process, they have overemphasised the centrality of News in the spectrum of programming possible in a deregulated milieu. In fact, FM broadcasters have expanded their permissible frameworks of commerce in a far more systematic manner than that of their canvas of content¹²⁹. Nevertheless, both types of broadcasters have channelled scant investment in the imagination and creation of other genres of programming. Doing so has bypassed a rigorous engagement with the crisis of representation in their advocacy and production practices alike¹³⁰. The inability to traverse this crisis has further bearings on their varied aspirations of encouraging diversity, irrespective of whether these are visualized through market or non-market instruments.

¹²⁸ This relies on the conceptual distinctions sketched out in; Philip M. Napoli (2007) 'Public Interest Media Activism and Advocacy as a Social Movement: A Review of the Literature', *Report prepared for the Media, Arts and Culture Unit of the Ford Foundation*; Donald McGannon Communication Research Center, Fordham University, New York (Draft Date: April).

¹²⁹ For instance, in September 2008, FM broadcasters managed to extract from the government the permission to create subsidiaries and merge/demerge/amalgamate themselves by transferring shares.

¹³⁰ It is another matter that such a crisis of representation has tended to typify the formative years of deregulation of TV in India as well; see Shields & Muppidi (1996); The crisis is also palpable in critically examining the spectrum of programming on News channels; for instance see, Daya Kishan Thussu (2007) 'The 'Murdochization' of news? The case of Star TV in India'; *Media Culture Society* Vol. 29 No. 4 (pp. 593-611) especially pp. 599-606