INDIA MOVES TO A DIGITAL ERA

Latest FICCI survey shows a distinctive move of Indian media to a Digital Era

A. FICCI FRAMES PUNTS FOR A DIGITAL FUTURE

- Every summer, the Federation of Chambers of Commerce and Industry (FICCI) holds an annual media conference in Mumbai. Among its key highlights is a definitive report prepared by Ernst and Young (EY) with the assistance of industry leaders and media experts. It is unparalleled in its depth and credibility.

- This year's Report released in early May 2023 has punted that the future of the Indian Media and Entertainment Industry will be digital.

- The principal author of the Report, Mr Ashish Pherwani, Partner EY, states in the Report that "The Indian M&E consumer base is large but heterogenous, hungry for content but willing to pay only for value, and more than ready to experiment with technology, be it streaming, digital payments, online education, virtual experiences, e-commerce, social media, or gaming."

- The head of the Jio Media and Content business of Reliance, Ms Jyoti Deshpande, said, "It is an exciting time to be in the M&E business, as we leverage the three pillars of the industry - content, media, and entertainment."

B. DIGITAL YUG KO AAM AGAR HAI BHARAT

नवीनतम फिक्की सर्वेक्षण भारतीय मीडिया के डिजिटल युग की ओर एक विशिष्ट कदम दर्शाता है।

ए. फिक्की फ्रेम्स डिजिटल भविष्य की वकालत करता है

- हर गामिनी में, केंद्रीय ऑफिस्स ऑफ कॉर्परेट एंड इंडस्ट्री (फिक्की) मुंबई में एक वार्षिक मीडिया सम्मेलन का आयोजन करता है। इसकी मुख्य विषयवस्तुओं में अंतर्गत एंड यंग (ईवेब) द्वारा उपयोग जगत के नेताओं और मीडिया विशेषज्ञों की सहायता में तैयार की गयी एक निखिल रिपोर्ट है।

- जून 2023 की शुरुआत में जानी है कि इस साल की रिपोर्ट कहता है कि भारतीय मीडिया और मनोरंजन उद्योग का भविष्य डिजिटल होगा।

- रिपोर्ट में प्रमुख लेखक श्री अंब्रोज फेल्टर, पैटर्नर ईवेब, ने रिपोर्ट में कहा है कि "भारतीय एम एंड ई उपयोगकर्ता आधार व्यापक विविध है, सामग्री के लिए सुविधा है, लेकिन कंपनी के साथ प्रयोग करने के लिए तैयार है और विदेशी के साथ संयोजन करने के लिए तैयार है। इससे बाहर स्तम्भित, डिजिटल मुनाफा, ऑनलाइन विश्व, आम आम, ई-कंपनियों, ऑनलाइन मीडिया या गेमिंग होगा।"

- रिपोर्ट के नियोजक मीडिया और कंटेंट विज्ञान के प्रमुख वीडियो जॉर्ज इंटरनेशनल के कहा "यह एम एंड ई विज्ञान में रहने का एक रोमांचक समय है, क्योंकि हम तकनीकी नवाचार द्वारा संसाधित
KEY HIGHLIGHTS OF THE REPORT

- The Indian Media and Entertainment (M&E) Sector grew by 20% in 2022 to reach INR 2.1 trillion (US$ 26.2 billion), 10% above its pre-pandemic levels in 2019.
- It is expected to grow to a further INR 734 billion to reach INR 2.83 trillion in 2025.
- Digital media grew by INR 132 billion from 16% in 2019 to 27% in 2022 to reach INR 571 billion and 48% of all advertising revenues.
- Paid video subscriptions reached 99 million in 2022, across almost 45 million households in India, with a total viewership of around 135 to 180 million users.
- The digital segment is expected to grow to INR 862 billion by 2025 at a 15% CAGR.

TV UNIVERSE

- Television advertising grew 2% at the end of 2022, just behind its 2019 levels, on the back of volume growth.
- TV Subscription revenue continued to fall for the third year in a row, experiencing a 4% decrease due to a reduction of five million pay-TV homes and stagnant consumer-end ARPUs.
- The fall in pay television homes has been attributed to both cord-cutting at the top end and movement to Free Television (DD FreeDish) at the bottom of the customer pyramid.
- There were 120 million active Pay TV homes and 45 million Free TV homes in 2022.
- Smart TV sets, however, increased to 25 million though only 8 to 10 million connected to the Internet daily.

FUTURE OUTLOOK FOR TV -2025

- Total television screens (linear and bidirectional) are expected to reach 206 million by 2025 from 180 million today.
The two forecasts are starkly different. Total TV segment revenues are expected to grow at a CAGR of only 4% per cent. In contrast, Digital Media revenues are expected to grow at a CAGR of 15% by 2025.

This is a wake-up call not just for the TV distribution industry but also for the linear broadcast TV industry.

In the Report, one of the astute observers of the ME Industry, Mr Gurjeev Singh Kapoor of Disney Star, says that "TV has an unparalleled reach of 900 million viewers. With less than 70 per cent of homes having a TV in India, the market remains under-penetrated, offering significant potential for growth in the years ahead."

BARC has not officially released active TV home data for three years. The last Indian Census took place in 1991.

It is difficult to determine the exact number of homes in India, but it is estimated to be around 300 million.

The TV distribution industry must embrace broadband technology and partner with telecom companies to ensure its survival if the Multi System Operators do not rise to meet the challenge.

The future of Indian TV distribution is clearly in the rural areas with many Cable TV dark areas.

The EY Report forecasts that by 2025 the mix will be different. The growth of overall television households would be driven by connected TVs which could cross 40 million by 2025, and Free Television (Free Dish) could cross 50 million.

Pay TV households are expected to decline by two million in 2023 before falling slowly to 116 million homes by 2025.

Total television segment revenues are expected to grow at a CAGR of 4% to reach INR 796 billion by 2025.

The Report forecasts that LCOs will rejuvenate their last-mile distribution businesses with digital offerings and drive connectivity for India, supported by larger telcos and ISPs.

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Another opportunity is to persuade 45 million Free Dish homes to convert to low-cost but friendly pay TV packages.

◆ All is not over for the vibrant TV distribution industry, but this is not the time for complacency. But this writer feels that retrieving the eroding subscriber base by 2025 would be too late.

B. ONLINE GAMING IS A ROARING SUCCESS IN INDIA

◆ Online gaming is one of the fastest-growing segments of the Indian M&E sector in India, with runaway potential in the balance decade. It is the fourth-largest segment of the Indian M&E sector.

◆ The online gaming segment grew 35% in 2022 to reach INR 135 billion.

◆ The FICCI Frames EY Report 2023 and All India Gaming Federation estimate that online gamers grew to 421 million in 2022. Around 90 to 100 million are frequent players of games. Transaction-based game revenues grew 39%, while casual gaming grew 20%.

◆ The Report further reveals that:
  - Transaction-based game revenues crossed INR 100 billion.
  - The resumption of sporting events, including marquee events like FIFA, Asia Cup, IPL, and T20 World Cup, drove fantasy sports growth.
  - Close to 25% of online gamers are paid gamers, increasing by approximately 2 million per month.

TOUGH REGULATORY MEASURES

◆ A Press Information Bureau release on April 20, 2024, noted that:
  - 'The online gaming industry in India has seen immense growth recently. However, various social and economic concerns have emerged from this industry.
  - The Ministry of Electronics and IT (MeitY) introduced various checks and balances through relevant amendments to IT Rules 2021, notified on April 06, 2023.'

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These amendments aim to control the unabated and unwarranted negative impact of online gaming activities on users, especially children and other vulnerable sections of society.

The Rules disallow intermediaries to host or display any advertisement or surrogate advertisement or promotion of an online game that is not a permissible online game.

The Rules will ensure that online games or sites that involve wagering will be banned completely, including advertising or any time of presence. For this, the Rules introduce the concept of a 'permissible online game'.

**EY FORECAST FOR 2025**

- The online gaming segment is expected to grow at a CAGR of 20% over four years to reach INR 231 billion by 2025.
- Transaction-based gaming is estimated to grow at a CAGR of 21% to reach INR 183 billion and contribute 79% of total segment revenues.

**COMMENT**

- Indian regulations have never kept pace with fast-moving events. There is no coherent regulatory policy to guide online gaming.
- Piecemeal steps have been taken recently to amend the IT Rules 2021 to bring in regulations, mainly to regulate and even ban wagering on online gaming.
- A new tax regime is in place whereby TDS will be deducted at 30% of net winnings from any online platform.
- Argus Partners pithily states:
  - In effect, the Government has banned any online real money game that involves wagering on any outcome.
  - However, the Amendment fails to define 'wagering precisely'.
  - Further, it appears that if an online real money game involves any wagering, it shall not be eligible to be verified as a permissible game, even if the game is predominantly a game of skill.
  - This approach would be contrary to the verdict given by courts wherein they have distinguished

**2025 के लिए ईआईए इम्यूनिजन**

- उम्मीद है कि ऑनलाइन गेमिंग एंडेंट चार वर्षों में 20% सीएचआई में बढ़कर 2025 तक 231 बिलियन रुपये तक पहुंच जायेगा।
- अनुमान है कि लें-दें आर्थिक गेमिंग 21% की सीएचआई में बढ़कर 183 बिलियन रुपये तक पहुंच जायेगी और कुल एंडेंट गामों में 79% का योगदान करेगा।

**टिप्पणी**

- भारतीय नियम कभी भी तेजी से आगे बढ़ने वाली घटनाओं के साथ ताल्मेल नहीं किया पाये हैं। ऑनलाइन गेमिंग को नियंत्रित करने के लिए कोई सुसंगठित नियमक नीति नहीं है।
- आईआईए नियम 2021 में संजोधन करने के लिए हाल ही में टुकड़े-टुकड़े करने उड़पने गए हैं, ताकि मुख्य दृष्टि से ऑनलाइन गेमिंग पर सद्देश्य का विनियमन और प्रतिबंधित किया जा सके।
- एक नयी जरिया बनाई गई है जिसके तहत किसी भी ऑनलाइन जेटिफायर में 100 जीत पर 30% टॉकरो करा जायेगा।
- आईआईए नियम 2021 में संजोधन करने के लिए हाल ही में टुकड़े-टुकड़े करने उड़पने गए हैं, ताकि मुख्य दृष्टि से ऑनलाइन गेमिंग पर सद्देश्य का विनियमन और प्रतिबंधित किया जा सके।
- ऑनलाइन गेमिंग का सारांश में सारांशित रूप से शामिल है।
- वास्तव में सुरक्षा ने किसी भी ऑनलाइन वास्तविक पैसे खेल पर प्रतिबंध लगाया है जिसमें किसी भी परिणाम पर दावा लगाया शामिल है।
- हालांकि संजोधन 'थर्स्ट' रूप से दावा लगाने को परिभाषित करते हुए विफल रहता है।
- इसके अलावा ऐसा प्रतीत होता है कि यदि किसी ऑनलाइन रियल मैनी गेम में कोई दावा लगाया जाएगा, तो वह एक अनुमय गेम के रूप में स्वीकार होने के बाद नहीं होगा, बल्कि ही गेम मुख्य रूप से कानून का गेम हो।
- यह दुवित्कोण अंदाज में दिखाई देने के लिए विवरण.
between games of skill and games of chance and have held any prohibition on the former to be ultra vires the Constitution."

- This writer fervently hopes that a compendium of new laws to regulate and enable the burgeoning Digital Economy will be passed by Parliament, hopefully by the winter session.
- Till then, hopefully, Government and Regulators will continue to enable the healthy growth of all media industries without using a heavy hand as has become the norm recently.

C. WILL SEBI INVESTIGATIONS SCUTTLE THE ZEE SONY MERGER?

- The merger of Zee and Sony was agreed to in April 2021. The objective was to bring into being a 10 billion dollar media behemoth to take on the large US-based entities like Disney Star/Amazon Prime and Google.
- As part of the deal, Zee founder Mr Subhash Chandra’s son, Mr Punit Goenka, would continue to be the combined company’s Managing Director and CEO.
- In addition, Sony would pay a non-compete fee to promoters of Zee, which they would use to infuse primary equity capital into SPN, allowing them to buy shares of the company.
- In July 2022, Zee received approval for the merger from the two stock exchanges.

SEBI INVESTIGATIONS CAUSE NEW ROADBLOCKS

- In May 2023, during a key hearing to process the merger, lawyers for the two stock exchanges informed the NCLT of an interim order passed on April 25 2023, against Shirpur Gold Refinery an Essel Goenka company, accusing it of devising "a
well-designed scheme devised by the Promoters to move the funds out of Shrirpur and transfer to their accounts while misusing the IBC process".

- The NCLT directed the Stock Exchange lawyers to check with SEBI whether the approval for the merger granted by the stock exchanges in July 2022 stood and whether the payment of non-compete fees in Mauritius was in accordance with SEBI Regulations.

- Zee filed an appeal to the National Companies Appellate Tribunal, which set aside the NCLT Order, stating that natural justice opportunity be given to Zee to voice its objections to both directions of NCLT.

- Zee received another setback by an interim order dated 12/06/2023 directing that the Chairman Emeritus, Mr Subhash Chandra, and his son Mr Punit Goenka step down from the Board of Zee and cease to be Key Management Personnel due to alleged diversion of Rs. 200 crores to seven group concerns without knowledge of the Board.

- Mr Subhash Chandra and Mr Punit Goenka filed appeals in SAT. The SAT heard arguments at length and reserved judgment. Based on the contentious arguments made, the case can go either way.

**COUNTER AFFIDAVIT BY SEBI**

- SEBI filed an extraordinarily strong counter-affidavit to SAT justifying its interim order. It revealed that the fresh investigation arose from the settlement petition filed by Shrirpur Refineries, an Essel Goenka group company.

- **SEBI stated in the affidavit that Shrirpur's case reflects a contrived scheme with a set of sham transactions meant to mislead and facilitate a circuitous movement of funds.**

- **SEBI initiated the process of obtaining bank statements from the various banks involved and tracing the source of money used by the related party to 'repay' ZEE.**

- **Upon investigating the transactions, SEBI found some glaring irregularities.**

- "While ZEE claimed to have received repayment
of money from the related parties on account of the adjustment by Yes Bank, SEBI found that such money originated from ZEEL itself and group companies of the Essel Group (which includes ZEEL). Therefore, effectively, ZEEL funded its repayment," the Regulator said.

- In the instant case, we have a situation before us where the Chairman Emeritus and the Managing Director and CEO of this large-listed company are involved in a myriad of different schemes and transactions through which vast amounts of public money belonging to listed companies are diverted to private entities owned and controlled by these persons.

**COMMENT**

- **On June 22, 2023, Mr Punit Goenka** held a series of media briefings to state that the merger with Sony would go ahead irrespective of whether he continued as CEO/MD of Zee.

- He told the Economic Times, "The Zee Sony merger holds immense significance regardless of my position as CEO. The resulting entity will be in Sony's control, and they have chosen to retain me as promoter, MD, and CEO.

- He further claimed that, however, if the law prevents me from holding these positions, should the merger be allowed to fail? Such an outcome would negatively impact everyone involved in the ecosystem and the sector as a whole."

- Of course, Mr Punit Goenka is advised by a big team of experienced lawyers and consultants. Even so, corporate propriety demanded that when NCLAT refused to grant an interim stay, Mr Goenka should have stepped down from the Board till the litigation in courts/SEBI investigation was over or at least proceeded on leave.

- Listed Companies have experienced Boards consisting of independent directors and non-executive internal directors. The Board automatically steps up and gives guidance in such situations. Evidence of this is lacking at the present stage.

- **Regardless of Mr Punit Goenka's continuation as MD/CEO, this writer expects the merger process to be completed by March 2024.**