

COMPETITION COMMISSION OF INDIA

28th May, 2012

Combination Registration No. C-2012/03/47

Order under Section 31 (1) of the Competition Act, 2002

A. INTRODUCTION

1. On 27th March, 2012, the Competition Commission of India (hereinafter referred to as the “**Commission**”) received a notice under sub-section (2) of Section 6 of the Competition Act, 2002 (hereinafter referred to as the “**Act**”) relating to the proposed subscription to the Zero Coupon Optionally Convertible Debentures (hereinafter referred to as “**ZOCDs**”) of RB Mediasoft Private Limited, RRB Mediasoft Private Limited, RB Media Holdings Private Limited, Adventure Marketing Private Limited, Watermark Infratech Private Limited and Colorful Media Private Limited (hereinafter all these companies collectively referred to as “**target companies**”) by Independent Media Trust (hereinafter referred to as “**IMT**”).
2. The notice was given to the Commission pursuant to the execution of an Investment Agreement on 27th February, 2002 between the target companies, IMT, Mr. Raghav Bahl and Ms. Ritu Kapur (hereinafter referred to as the “**Investment Agreement**”).
3. In terms of Regulation 14 of the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011 (hereinafter referred to as “**Combination Regulations**”), vide letter dated 4th April, 2012, IMT was required to remove defect(s) and furnish certain information/document(s). IMT filed its response to the said communication on 23rd April, 2012.
4. In terms of sub-regulation (4) of Regulation 5 and sub-regulation (2) of Regulation 19 of the Combination Regulations, vide letter dated 9th May, 2012, IMT was required to provide additional information. IMT filed its response to the said letter on 23rd May, 2012.

B. COMBINATION

5. As per the details disclosed in the notice and the documents annexed thereof, the proposed combination comprises of the following acquisitions that are inter-connected or inter-dependent on each other:
 - (a) IMT proposes to subscribe to the ZOCDs that are to be issued by the target companies, which are stated to be presently owned and controlled by Mr. Raghav Bahl. It has been stated in the notice that before the said subscription, Mr. Raghav Bahl and his affiliates who own and control around 40 per cent of the equity share capital of Network18 Media and Investments Ltd. (hereinafter referred to as



“**Network18**”) would transfer their entire shareholding of around 40 per cent to the target companies. The holder of the said ZOCDs that are proposed to be subscribed has the option to convert the ZOCDs into equity shares of the target companies at any time before the expiry of ten years from the day on which the ZOCDs are subscribed. Further, upon conversion of all the ZOCDs into equity shares, IMT would hold more than 99.9 per cent of the fully diluted equity share capital of each of the target companies.

- (b) The target companies propose to use the proceeds from the issue of the ZOCDs to subscribe to the proposed rights issue of equity shares of Network18. Network18 proposes to raise INR 2700 crores through its rights issue.
 - (c) Network18 proposes to use the proceeds from its rights issue to repay its debts of around INR 1300 crores and the rest of around INR 1400 crores to subscribe to the rights issue of TV18 Broadcast Limited (hereinafter referred to as “**TV18**”), in which it currently owns 51.24 per cent of the paid up equity share capital. TV18 proposes to raise INR 2700 crores through its rights issue.
 - (d) TV18 proposes to use the proceeds from its rights issue to repay its debts of around INR 750 crores and the rest of around INR 1950 crores to acquire 100 per cent equity securities of Equator Trading Enterprise Private Limited (hereinafter referred to as “**Equator**”).
6. As a condition precedent to the subscription of ZOCDs of the target companies, Network18, TV18 and Infotel Broadband Services Limited (hereinafter referred to as “**Infotel**”) have entered into a Content Licence and Services Agreement dated 27th February, 2012 (hereinafter referred to as “**Content Licence Agreement**”), pursuant to which Infotel would have preferential access to the programming and digital content of all the broadcasting channels and other content of Network18 Group on a first right basis as the most preferred customer

C. PARTIES INVOLVED IN THE COMBINATION

7. IMT is a trust established for the exclusive benefit of Reliance Industries Limited (hereinafter referred to as “**RIL**”) for the purpose of holding the trust fund on trust exclusively on behalf of and for the benefit of RIL in accordance with the terms contained in trust deed dated 22nd November, 2011. RIL is a listed company incorporated under the provisions of the Companies Act, 1956. RIL operates in various businesses ranging from exploration and production of oil and gas; petroleum refining and marketing; petrochemicals comprising polymers, polyester and fibre intermediates; textiles; retail; telecom services etc. RIL operates in the above sectors directly and through its subsidiaries and joint ventures (all the companies of RIL are collectively referred to as “**RIL Group**”).
8. Infotel is a subsidiary of RIL which proposes to offer broadband internet services using 4G technologies. For the said purpose, it holds Category A All-India Internet Service



Provider License issued by Department of Telecommunications (DoT), Ministry of Communications & Information Technology. Infotel has also been the successful bidder in broadband wireless access (BWA) spectrum auction conducted by DoT in 2010 and holds spectrum across all the 22 circles in India.

9. The target companies, whose ZOCDs are proposed to be acquired by IMT are private limited companies incorporated under the provisions of the Companies Act, 1956 and are presently owned and controlled by Mr. Raghav Bahl. The Target Companies hold some of the shares of Network18 and TV18. It has been stated in the notice that Mr. Raghav Bahl and his affiliates who own and control around 40 per cent of the equity share capital of Network18 would transfer their entire shareholding of around 40 per cent to the target companies.
10. Network18 is a listed company incorporated under the provisions of the Companies Act, 1956. Network18 operates in media and entertainment sector, with interests in television, internet, film entertainment, digital content, e-commerce, magazines, mobile content, event management services and other allied businesses. Through its subsidiary TV18, the Network18 is engaged in programming, production and broadcasting of various news and general entertainment channels. Network18 operates a number of digital, e-commerce and publishing properties including the web content properties such as moneycontrol.com, ibnlive.com, in.com and firstpost.com; e-commerce properties such as HomeShop18 and bookmyshow.com; and also publishes business and consumer directories, such as the Infomedia Yellow Pages as well as special interest magazines like Overdrive, Intelligent Computing Chip, Forbes India, etc. Network18 operates in the media and entertainment sector directly and through its subsidiaries and joint ventures (all the companies of Network18 are collectively referred to as “**Network18 Group**”).
11. TV18 is a listed subsidiary of Network18 that primarily operates business news and general news channels including CNBC-TV 18, CNBC Awaaz, CNN-IBN and IBN 7. TV18 has a joint venture with Viacom International Inc. called Viacom18 Media Private Limited, which operates entertainment channels including Colors, MTV, VH1 and Nick. TV18 also has joint ventures with A+E Television Networks LLC and Lokmat Newspapers Private Limited for the purpose of operating television channels in factual entertainment space and Marathi news space respectively.
12. Equator which is proposed to be acquired by TV18, is a private limited company incorporated under the provisions of the Companies Act, 1956. Equator which is owned and controlled by enterprises belonging to RIL Group currently holds:
 - (i) almost all the equity securities in Panorama Television Private Limited (hereinafter referred to as “**Panorama**”) which is engaged in the business of production of programs and broadcasting television channels in Hindi and Urdu languages – namely ETV-Rajasthan, ETV-Bihar, ETV-Madhya Pradesh, ETV-Uttar Pradesh and ETV-Urdu and undertakes distribution/ transmission of its satellite channels to various cable operators and Direct-to-Home (DTH) service providers;



- (ii) almost 50 per cent of the equity securities of Prism TV Private Limited (hereinafter referred to as “**Prism**”) which is engaged in the business of production of programs and broadcasting television channels in various regional languages namely ETV-Marathi, ETV-Bangla, ETV-Gujarati, ETV-Kannada and ETV-Oriya and undertakes distribution/ transmission of its satellite channels to various cable operators and DTH service providers.
- (iii) 24.5 per cent of Eenadu Television Private Limited (hereinafter referred to as “**Eenadu**”) which is presently engaged in the business of production of programs and broadcasting television channels in Telugu language namely, ETV-Telugu and ETV-2 and also undertakes distribution/ transmission of its satellite channels to various cable operators and DTH service providers. It has been stated in the notice that 51 per cent of Eenadu is owned and controlled by Mr. Ramoji Rao and the rest 24.5 per cent is indirectly owned by RIL through its group company Anu Trading Private Limited (hereinafter referred to as “**Anu**”).
13. As per the details provided in the Draft Letter of Offer dated 1st March, 2012 of TV18 for the purpose of its rights issue, TV18 has entered into an option agreement with Anu and Devaki Commercials Private Limited, a group company of RIL. Upon exercise of the options under the said agreement, TV18 would hold 100 per cent of the equity securities of Anu which in turn would result in TV18 holding almost 100 per cent and 49 per cent of the equity securities of Prism and Eenadu respectively.

D. JURISDICTION

14. In terms of the Investment Agreement, holder of each ZOCD has the option to convert the ZOCDs into equity shares of the target companies with voting rights at any time during a period of ten years from the date of subscription. Since the conversion option contained in each ZOCD entitles the holder to receive equity shares of the target companies, the ZOCDs are shares within the meaning of sub-clause (i) of clause (v) of Section 2 of the Act and the subscription to ZOCDs amounts to acquisition of shares of the target companies.
15. In the event of conversion of all the ZOCDs, IMT would hold more than 99.99 percent of the fully diluted equity share capital of each of the target companies. Acquisition of such a right to convert the ZOCDs into equity shares, at any time before the expiry of ten years from the date of subscription, confers on IMT the ability to exercise decisive influence over the management and affairs of each of the target companies and the same amounts to control for the purposes of the Act. Therefore, in the facts and circumstances of the instant case, the subscription to the ZOCDs amounts to acquisition of control over the target companies for the purposes of the Act. Since control over the target companies is being acquired by IMT, the subscription to the ZOCDs in-turn would also result in indirect acquisition of control over Network18 and TV18 as these companies would be under the control of the target companies.



16. In terms of the trust deed establishing the IMT, RIL is the exclusive beneficiary of the IMT. Further, Reliance Industrial Investments and Holdings Limited, a wholly owned subsidiary of RIL is designated as the protector in the trust deed. The protector is authorised to remove the trustees at any time and upon such removal, it is lawful for the protector to appoint other person(s) as trustees. Considering these facts, it is evident that control of the IMT rests with RIL. In view of the foregoing, RIL is considered as the acquirer of control over the target companies which in turn results in indirect acquisition of control over Network18 and TV18. Moreover, it has also been stated in the notice that the Commission may construe that RIL, being the sole beneficiary of IMT, is acquiring the target companies and indirect control over Network18, TV18, and Equator.
17. The notice discloses a series of different acquisitions that are inter-connected and/or inter-dependent on each other and have the ultimate intended effect of RIL acquiring control over Network18 Group. All the acquisitions, directly or indirectly, of shares, control, voting rights and/or assets of different enterprises, that are inter-connected and/or inter-dependent are considered as one composite combination for the purpose of assessment under the provisions of the Act.
18. The proposed combination falls under Section 5(a) of the Act.

E. ASSESSMENT OF THE PROPOSED COMBINATION

19. The proposed combination pertains to the businesses of the enterprises belonging to RIL Group and Network18 Group. The assessment of competitive impact of the proposed combination is carried out in relation to the businesses where both the groups are engaged in production, supply, distribution, storage, sale or trade of similar or identical or substitutable goods or provisions of services, or where the activities of the groups are related to each other in different levels of production chain.
20. As per the details provided in the notice, both the groups are engaged in the business of supply of television channels and event management services. Further, the broadband internet services proposed to be launched by Infotel could be used to access the television channels, websites, web-portals and other web content operated/managed/offered by Network18 Group.

Supply of Television Channels

21. India is one of the largest broadcasting sectors in the world with around 831 television channels (www.mib.nic.in - last accessed on 20th May, 2012) registered with the Ministry of Information and Broadcasting, Government of India. These channels provide a mix of content in various genres and languages. The television channels in India may be classified as Free-to-Air (FTA) and pay TV channels. While advertising revenues is the primary source of revenue in FTA, pay TV channels earn revenues from advertisement as well as subscription.



22. Conventionally, the television channels are broadcasted through terrestrial and analog cable platforms. The digital transmission of television channels which is of recent origin comprises transmission through digital cable, DTH and Internet Protocol Television (IPTV). FICCI – KPMG report on Indian Media and Entertainment 2011 estimates the total television channels subscriber base in India as around 101.5 million of which the subscriber base for analog cable is around 68 million and the subscriber base for digital cable, DTH and IPTV is 5 million, 28 million and 0.5 million respectively (*FICCI – KPMG Indian Media and Entertainment Industry Report 2011*). Though the subscriber base for platforms using digital transmission of television channels has been progressing, analog cable network continues to be the predominant distribution platform for transmission of television channels.
23. The supply chain for broadcasting of television channels through analog cable network comprises the following: (i) Companies operating the television channels (broadcasters): (ii) Aggregators: (iii) Multi System Operators (MSO): and (iv) Local Cable Operators (LCO). The *broadcaster* owns the contents that are transmitted to the end consumers. The broadcaster may either produce its own content or source content from third party. The broadcaster uplinks the content signals to the satellite which are in turn downlinked by the distributors. The broadcaster may transmit its content either directly or through an aggregator. An *aggregator* is a distribution agent who undertakes the distribution of television channels for one or more broadcasters. Aggregator also does bundling of television channels of different broadcasters and negotiates on their behalf with the MSOs regarding subscription revenues. The sale of television channels to the MSOs by the broadcasters or the aggregators may be on *a-la-carte* basis (one channel sold as a single unit) or as a bouquet (two or more channels bundled and sold as a single unit). The MSOs downlink the content signals of the broadcaster and further distribute the same to LCOs for retail distribution to the end consumer. As per the Telecom Regulatory Authority of India (TRAI) estimates, India is stated to have around 200 broadcasters, 24 aggregators, 6000 MSOs and around 60,000 LCOs (*TRAI Consultation Paper on Implementation of Digital Addressable Cable TV Systems in India dated 5th August, 2010*).
24. Efforts have been taken by the Government of India towards digitization of the cable television system. The Government is in the process of mandating conditional access system to establish an addressable system that enables identification of subscriber base. These measures are primarily with a view to overcome the limitations of analog cable system including the lack of clarity on the cable subscriber base and the limitations on transmitting more number of channels to the end consumer.
25. Similar to analogue cable distribution system, in DTH distribution system, the broadcasters/aggregators sell their television channels to DTH Operators (DTHOs) for onward transmission to the end consumer. It is observed that DTH distribution system has gained significance in recent times and is likely to be the preferred choice of new subscribers in near future. As regards the IPTV distribution system, it is observed that the subscriber base in this system is comparatively insignificant.



26. Both RIL and Network18 Groups own and operate television channels that predominantly target the Indian viewers. Network18 has a distribution alliance with Sun Networks Limited called Sun18 for television aggregation. The channels of Network18 Group are aggregated in bouquets operated by Sun18 for further distribution to MSOs and DTHOs. However, it has been stated that Network18 is in the process of terminating the distribution alliance and is negotiating the terms to be appointed as an agent to distribute television channels operated by SUN Network Limited in Hindi speaking markets (i.e. North India), though the terms of such arrangement are not yet finalized.
27. As noted earlier, at present, there are around 831 television channels (*www.mib.nic.in - last accessed on 20th May, 2012*) targeting the Indian viewers operated by around 200 broadcasters (*TRAI Consultation Paper on Implementation of Digital Addressable Cable TV Systems in India dated 5th August, 2010*) including established players such as Star India Private Ltd., Zee Entertainment Ltd., Sun TV Network Limited, UTV Software Communications Ltd., Multi Screen Media Private Ltd. and NDTV Convergence Ltd. These channels may be classified on the basis of various parameters such as reach i.e. national or regional viewership, language and genre such as news, general entertainment, kids, sports and infotainment. RIL Group through Prism and Panorama operate ten regional television channels. The notice identifies five of these channels as news channels viz. ETV-UP, ETV-MP, ETV-Bihar, ETV-Urdu, ETV-Rajasthan and the rest five as general entertainment channels viz. ETV-Bangla, ETV-Marathi, ETV-Kannada, ETV-Oriya and ETV-Gujarati. On the other hand, all the television channels operated by Network18 Group except IBN-Lokmat have national reach and can fall within the broad categories of English business news (CNBC TV18), English general news (CNN IBN), Hindi business news (CNBC Awaaz), Hindi general news (IBN 7), kids (Nickelodeon & Sonic), Music (MTV and VH1), Infotainment (History TV18) and education (TopperTV). IBN-Lokmat is stated to be a joint venture between TV18 and Lokmat Newspaper Private Limited and is a Marathi news channel.
28. It is observed that the business of supply of television channels in India is featured by the presence of significant number of broadcasters operating across various genres targeting national and regional audience/viewership. The television channels operated by RIL Group primarily target regional audience/viewership, whereas the television channels operated by Network18 Group are targeted towards the national audience/viewership except IBN-Lokmat. The television channels operated by Network18 Group and RIL Group could be further distinguished from each other on the basis of genre and language. Both groups operate regional Marathi television channel however IBN-Lokmat operated by Network18 Group is a Marathi news channel whereas ETV-Marathi operated by RIL group is a Marathi general entertainment television channel. IBN7 of Network18 Group and ETV-UP, ETV-MP, ETV-Bihar and ETV-Rajasthan of RIL Group operate in Hindi news space which is characterised by the presence of other known channels like Aaj Tak, India TV, NDTV India, Star News and Zee News. Though both the groups operate Hindi news channel, IBN7 target national viewers/audience whereas the Hindi news channels of RIL Group target respective regional viewers/audience. Moreover, the combined share of IBN7, ETV-UP, ETV-MP, ETV-Bihar and ETV-Rajasthan in the total viewership base for Hindi news channels is also not significant.



29. It is apparent from the above that new television channels can be started with ease in India with sufficient scope for innovation and competition, both in terms of technology and content.
30. In view of the foregoing, the proposed combination is not likely to have adverse effect on competition in the business of supply of television channels in India and for the purpose of the present notice, specific determination of relevant product and geographic market in respect of supply of television channels in India is not necessary.

Event Management Services

31. IMG Reliance of RIL Group and E18 and Sports18 of Network18 Group are engaged in the business of event management services. Event management services are part of media and entertainment sector which is also referred to as live entertainment. The event management services comprise of organising/managing of general and special events including brand launches/promotion, fashion shows, award ceremonies, sports, wedding, concerts, contests and various corporate and social events. Event management industry in India is characterised by the presence of both organised and unorganised players across India. It has been stated in the notice that IMG Reliance is a joint venture between IMG Worldwide, a multinational sports marketing and management company and RIL which offers services of organising fashion shows and sports events. IMG Reliance also provides the services of sponsorship consultancy and brand promotion. E18 is engaged in organizing/managing events such as concerts, award functions, business conferences, product launches and seminars. Sports 18 is engaged in providing sports marketing solutions, event management and consultancy services relating to sports sector.
32. Though both the groups are engaged in event management services, the combined turnover of RIL Group and Network18 Group from providing event management services is comparatively insignificant. It has also been stated in the notice that the event management industry is characterised by presence of other players such as Wizcraft, Encompass, 360 Degrees, Percept D Mark Fountainhead etc. As per market reports (*FICCI-PWC The Indian Entertainment and Media Industry – Unraveling the potential: Frames 2006 and KPMG – CII Indian Entertainment Industry Focus 2010: Dreams to reality*), live entertainment industry in India is stated to have been growing at a fast and steady rate. It is also observed that the industry does not feature significant barriers to entry and the consumers of event management services possess bargaining power on account of factors such as the reputation associated with their brand(s), sponsor as well as the event.
33. In view of the foregoing, as regards the business of event management services in India, the proposed combination is not likely to give rise to any adverse competition concern.



Broadband Internet Services through 4G technologies and the contents accessible through such services

34. Infotel proposes to launch broadband internet services using 4G technologies. As per the license conditions of the Internet Service Provider (ISP) issued by the DoT internet access means use of any device/technology/methodology to provide access to internet including IPTV and all content available without access restriction on internet including web hosting and web colocation. The broadband internet services provide high speed access (> 256 kbps) to the web which enables consumers to access all types of web content viz. entertainment, news, games, e-commerce etc. At present, internet access is available to consumers through various means such as through cable/optic fibre cable, wire-line telecommunication network and wireless internet services through 2G/3G platforms on GSM and CDMA technologies.
35. For the purpose of 4G broadband internet services, Infotel has acquired rights over 20 Mhz contiguous BWA spectrum in the 2.3 Ghz band across all the twenty two circles in India. State owned BSNL and MTNL together also have license over BWA spectrum in all the circles across India. Apart from Infotel and the said state owned enterprises, one more ISP amongst Aircel, Tikona, Qualcomm, Airtel and Augere has been allotted with the BWA spectrum in each of the twenty two circles across India. Infotel is the only private sector enterprise to achieve pan-India license over BWA spectrum that could be used to offer internet services using 4G technologies. The spectrum allotted to BSNL and MTNL are in 2.5-2.69 Ghz band which is different from 2.3 Ghz band allocated to Infotel and other ISPs. As per the information available in public domain, BSNL is in the process of surrendering its spectrum as the ecosystem around 2.3 Ghz spectrum is stated to be fast growing which cannot be commercially adopted by BSNL in 2.5 Ghz band. From the recent media reports, it is noted that the Government of India could also consider allocating more spectrum or liberalising the spectrum which could pave way for launching 4G broadband internet services by the other operators as well. Further, it has also been observed that, in the telecom sector, the technological development is fast especially in the wireless segment which may lead to the introduction of new products and more efficient services. These innovations may spur more rivalry in the market.
36. Broadband Internet services using 4G technologies is of recent origin and the market for such services is yet to evolve in India. The success of the broadband internet services through 4G technologies depends on the growth and development of ecosystem which consists of internet service providers (ISP) providing connectivity to internet using 4G technologies; device manufacturers providing 4G enabled devices such as smartphones, tablets, dongles and Wi-fi routers; computer and laptop penetration, content providers in web space; application developers; and other players providing hosting and support services.
37. It is observed that the market for broadband internet services through 4G technologies in India is at nascent stage and the players operating in 4G ecosystem are in the process of developing viable techno-commercial market and the related ecosystem. As a 4G wireless broadband service provider, the growth of Infotel's business depends on the

development of the 4G ecosystem which comprises of device manufacturers, content providers, application developers, support infrastructure etc.

38. The agreement between Infotel and Network18 Group for Infotel's preferential access to the programming and digital content of all the broadcasting channels and other content of the Network18 Group could be viewed in the context of the intrinsic open access characteristic of an ISP and the fact that players on other platforms will not lag behind, thereby providing competition. As per the details provided in the notice and the additional information provided by IMT, Infotel's preferential access arrangement is stated to be on a non-exclusive basis and does not prevent Network18 Group from licensing its content to other network operators providing internet access services through wire line or wireless network including 2G, 3G and 4G services. Further, Network18 Group also has agreements with various other telecom and value added service providers for making available its content to the subscribers.
39. The proposed 4G wireless broadband internet services of Infotel could be used to access and view the web-content and television channels operated by Network18 Group as well as other web-content. Network18 Group operates various web-portals that could be accessed through various internet access services through wire line or wireless network including those using 2G, 3G and 4G technologies. In view of the fact that there are other content providers, either existing or potential, who in time will be able to provide content through other ISPs, including players offering 4G services, and may even use new and more competitive models, the potential competition concerns, if any, that may arise from the vertical arrangement get mitigated. Moreover, for content providers it will be more desirable to have presence on various delivery platforms to access a larger market for increased revenue.
40. In view of the foregoing, it is observed that the proposed combination is not likely to have adverse effect on competition in the business of provision of contents through broadband internet services.

F. CONCLUSION

41. Based on the facts on record and the details provided in the notice filed under sub-section (2) of Section 6, the proposed combination is not likely to give rise to any adverse effect on competition in India.
42. Considering the facts on record and the details provided in the notice given under sub-section (2) of Section 6 of the Act and the assessment of the proposed combination after duly considering the relevant factors mentioned in the section 20(4) of the Act, the Commission is of the opinion that the proposed combination is not likely to have an appreciable adverse effect on competition in India and therefore, the Commission hereby approves the proposed combination under sub-section (1) of Section 31 of the Act.
43. This approval is without prejudice to any other legal/statutory obligations as applicable.



44. This order shall stand revoked if, at any time, the information provided by the parties to the combination is found to be incorrect.
45. The Secretary is directed to communicate to IMT accordingly.



Certified True Copy

[Handwritten Signature]
28/5/12

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