CHAPTER I

INTRODUCTION

During its history of almost two centuries, the Press in India has profoundly influenced the national life. It was closely associated with the freedom struggle and became the vehicle of the thoughts and feelings of the Indian people who were fighting for liberation from colonial rule. The nationalist Press was also in the vanguard of the people's struggle for social changes and economic liberation. The Press in India has played a significant role in creating social awareness, challenging deep-seated social prejudices and fighting ignorance and superstitions in our society, before and after our independence.

2. The Press in India has grown in size and strength since our independence. It is now highly developed, technologically well-equipped and professionally competent with adequate resources. India with all its negative features like social backwardness, poverty, lack of proper health care system particularly in the rural areas and the high level of illiteracy can legitimately take pride in the fact that the Press in India is free and vigilant. In our constitutional scheme, freedom of the Press is an inalienable part of the Fundamental Rights of the citizens of the country. This underscores the crucial importance the Press enjoys in the life of the nation and its citizens.

3. With the first newspaper published two centuries ago, today India has 50,029 newspapers which together has a circulation of 13,00,87,493. The print media has made deep penetration into different layers of the Indian society. There is "newspaper consciousness" among the people with ever increasing readership. It can doubtlessly be said that the phenomenal growth and spread of newspapers during the past 50 years are a definite index of the impact of the print media on the public mind.

4. In 1953, the Government of India appointed a Press Commission under the Commission of Inquiry Act, 1952 to inquire into the state of the Press in India. The 11 member Commission was headed by Justice G.S. Rajadhyaksha. The Commission inquired into the control, management and ownership, the financial structure as well as other important aspects of the newspaper industry in the country. The Commission, after a careful and detailed study, concluded that there should be indigenisation of both capital

and the staff especially at the higher levels and it was highly desirable that proprietorial interests in daily and weekly newspapers should vest predominantly in Indian hands.

5. The question of foreign entry into the Indian print media was considered by the Ministry of Information & Broadcasting, Government of India, and its Note dated 4 May, 1955 (since dis-classified) to the Union Cabinet has been set out later in this Report.

6. After considering the recommendations of the Press Commission and the Note submitted by the Ministry of Information & Broadcasting, Government of India, the Union Cabinet adopted a Resolution on 13 September, 1955, which became the basic policy document in regard to the Press in India. The resolution is as follows:-

"The Cabinet considered the Ministry of Information & Broadcasting's note dated May 4, 1955, and was of the view that so far as the ownership of newspapers and periodicals by nationals of other countries was concerned, the problem was not a very serious one as there were only a few such newspapers and periodicals. The Cabinet, therefore, felt that no action need to be taken in regard to these newspapers and periodicals but that no foreign-owned newspaper or periodical should, in future, be permitted to be published in India. The Cabinet, however, agreed that the other recommendation of the Commission that foreign newspapers and periodicals, which dealt mainly with news and current affairs, should not be allowed to bring out Indian editions, should be accepted in principle.

So far as the "Reader's Digest" was concerned, the Cabinet was of the view that, as permission had already been granted to it to bring out an Indian edition, nothing need be done in the matter, but that permission should not be given to bring out an Indian Edition of this periodical in any of the regional languages."

7. During the past 46 years since the above Resolution came into effect, no foreign newspaper or periodical has been allowed to be published from India nor any foreign investment in the domestic print media sector has been permitted.

8. However, in the new context of globalization, the demand for foreign participation and investment in the print media has been raised by a section of the newspaper industry. In the public debate which has taken place on this issue, the opinion of the print media has been divided. Since the issue has far reaching consequences for the Press in India, the Committee decided to take up this subject for a detailed study. A public notice was issued

inviting opinions from the interested parties and members of the public in general. A large number of eminent people, including those representing different interests in the print media appeared before the Committee and gave their views on the subject. The Committee has been immensely benefited by these views. The representatives of the Ministries of Information and Broadcasting, Law, Justice and Company Affairs and Home Affairs tendered evidence before the Committee. Eminent lawyers too appeared before it and gave their views, *inter alia,* on certain constitutional aspects of the issue.

9. While the matter was under discussion by the Committee, a letter dated 4 June, 2001 was addressed to the Chairman of the Committee by the Hon'ble Minister of Information & Broadcasting, Government of India, enclosing a copy of a letter dated 25 May, 2001 from Shri T.N. Ninan of Business Standard Limited, annexed to which was the copy of a letter dated 24 May, 2001 "signed by five leading publishers of newspapers and magazines, requesting the Government to consider permitting Indian print media companies to have greater access to capital by allowing investment by foreign institutional investors, non-resident Indians, overseas corporate bodies and resident Indian companies having minority foreign shareholding. As the joint letter emphasizes, such investment would not be in contravention to the Cabinet Resolution of 1955 concerning foreign media presence in India".

10. The Hon'ble Minister in her letter of 4 June, 2001 stated,

"{I am enclosing a letter along with this letter, which I received from Shri T.N. Ninan, Editor Business Standard and 4 other established Editors. I have come to know that your Standing Parliamentary Committee is presently considering the issue of foreign capital investment in Print Media. According to these Editors, the proposals sent through the letter do not violate the Cabinet Resolution of 1955 in any way. I want that you may look into this aspect also while discussing this whole issue}" (originally in hindi)

Copies of the said letters will be found in Appendix-I to this Report.

CHAPTER II

THE ISSUE

11. As stated earlier, the media policy based on the Cabinet Resolution of 4 May, 1955 has been followed during the past 46 years. No foreign newspaper has thus been allowed to be published in India nor any foreign investment in any form allowed in the print media

sector. The only exception was “Readers Digest” which had started its publication long before the Resolution was adopted. However, the demand that foreign investment should be allowed for the development and modernization of newspapers has been made periodically.

12. A Committee of Secretaries was formed by the Government in 1989 to examine the question relating to publication of foreign-owned newspapers and of Indian editions of foreign technical and specialized journals. The Committee has been informed through a written communication from the Ministry of Information and Broadcasting that the reports of this Committee are secret documents and hence their copies could not be provided. However, the Ministry communicated the dominant view of the Committee which was that there was no need to revise the existing policy especially with regard to news and features.

13. The Committee of Secretaries in the meeting held on 8 August, 1989 decided again that no foreign owned newspaper or periodical should be permitted to be published in India. It was further decided that publication of foreign science and technology journals and periodicals in India as Indian editions may be permitted if they are textually exact replicas.

14. Subsequently, on 24 August, 1990, the Committee of Secretaries suggested that as in the case of Science and Technology journals, Indian editions of financial news based periodicals may be allowed to be published.

15. In 1992, the Press Council of India considered this issue and the dominant view of the Council was that publication of foreign papers/journals in India involving equity and management participation should not be favoured.

16. A Group of Ministers (GOM) under the Chairmanship of Shri N.K.P. Salve was constituted in 1994 to study and report on the foreign ownership of newspapers and periodicals and entry of foreign owned publications. This Group submitted the report which has been termed by the Government as secret document and hence has not been made available to the Committee. However, the gist of the minutes of the meeting held on 26 August, 1994 was made available, from which it is learnt that some Members of the Committee felt that publication of technical and science journals could be permitted but time is not ripe to permit unrestricted entry of foreign participation in newspapers and

periodicals. It was also pointed out in the meeting that even with minority shareholding, it is not difficult to effectively influence the contents of the newspapers and periodicals and hence even minority foreign ownership is fraught with risks. From the gist of the minutes it appears that a contrary view too was aired by some Members who pointed out that the trend all over the world was towards the liberal entry of foreign owned publications.

17. Based on this report of the Group of Ministers, the matter of foreign ownership of newspapers was placed before the Cabinet in February, 1995. But no decision was taken.

18. The brief history given above clearly shows that a decision on changing the media policy laid down in the Cabinet Resolution of 1955 could not be taken as there was no consensus on the issue. The opinion was sharply divided which compelled the Cabinet to defer the decision indefinitely. However, the dominant view that emerged in all these deliberations was that there was no need to deviate from the basic policy contained in the Cabinet Resolution of 1955.

19. The Cabinet Resolution of 1955 bars foreign owned newspapers and periodicals from being published from India and foreign newspapers and periodicals which dealt mainly with news and current affairs from bringing out Indian editions. Thus the issues the Committee took up for consideration are:

(i) whether the foreign equity participation should be permitted in the Indian print media sector in the changed situation;

(ii) whether the foreign newspapers should be allowed to bring out Indian editions and, thus, whether a shift in the policy contained in the Resolution of 1955 is necessary and

(iii) Whether Indian print media companies be allowed to have greater access to capital by allowing investment by FIIs, NRIs, OCBs etc. as mentioned in the letter of 25 May, 2001.

20. The Committee does not take the view that since the Union Cabinet decided in 1955 that foreign owned newspapers and periodicals shall not be permitted to be published in India, no change in the policy decision can ever be made. New circumstances and new developments in the media sector may necessitate a shift in the policy relating to the print media in future. So, the question considered by the Committee was whether such circumstances exist today which necessitate the entry

of foreign interest in the print media sector and whether we should allow foreign investment therein in the form of equity participation or greater access to capital as mentioned above. The Committee also considered the long term implications of such a policy shift.

CHAPTAR – III

DIVERGENCE OF VIEWS AND PERSPECTIVES

21. Many prominent persons from the Indian Press appeared before the Committee to present their views on the subject. Very eminent jurists came to depose. Veteran Parliamentarians came as witnesses. All of them presented their views very forcefully and in a frank and forthright manner and the Committee was immensely benefitted by the same.

Altogether 19 non-official witnesses deposed before the Committee.

22. The main arguments put forth by the witnesses who are in favour of the entry of foreign media and foreign investment in the print media are given below:-

(i) The Cabinet Resolution of 1955 does not prevent foreign equity holding and does not per se rule out investment in the form of minority equity. It has in fact banned only foreign titles dealing with news and current affairs.

However, this Resolution requires to be looked at afresh in the context of a different socio-economic-political reality as well as the communication revolution characterized by the advent of INTERNET, cable TV etc. There was no TV, INTERNET or other means of modern communication available in 1955. There has been a fundamental change in the environment in which the Cabinet Resolution of 1955 was passed;

(ii) The masses get more guided by the electronic media than the print media. TV has 75 per cent coverage whereas the print media's coverage is only 16 per cent. The electronic media-satellite TV and INTERNET is now becoming more and more the primary source of information for the people. For example, today all the big events are broken and seen on television before they are read in the next day's newspapers.

It is only the middle class and the sophisticated people who can absorb, discuss and be influenced by the quality of language used in print media. They are the opinion makers. Of course what appears in print media may have a great influence on the society. But the opinion makers should be able to discern what is good for the country and what is not.

There is a fallacious notion that newspapers mould public opinion whereas television is merely a medium of information. But today Television is moulding public opinion more than the newspapers. It influences the views of the masses more extensively compared to the print media as has been seen during the Kargil war;

(iii) Foreign capital is necessary for the Indian Press, particularly the small and medium newspapers to compete with the big newspapers which enjoy a monopoly position in the country. Through the process of commercialization of the print media, there is going on a kind of circulation war among the big newspapers. As a result of this the small and medium newspapers are suffering financially. As the big newspapers have huge cash resources, they are able to sell their newspapers at as low a rate as Rs. 1.00 or Rs. 1.50. The regional press and the local newspapers have suffered in this process. The regional press which is important as it ensures plurality needs capital for growth.

The Government has permitted foreign equity in the electronic media, but is adhering to the Cabinet Resolution of 1955 and denying foreign investment to the print media which is discriminatory. Foreign Direct Investment (FDI) is not being permitted to protect the Indian democracy. But since Independence, there has been liberal import of newspapers, magazines and periodicals. This means we can import something which is expensive but we cannot produce it locally and make it available to the Indian public at cheaper rates. In fact, foreign newspapers and periodicals are available today through INTERNET and reprints of global financial dailies like the Wall Street Journal and Financial Times are available through leading Indian dailies. Further, if a newspaper is put in an electronic form (INTERNET) a foreigner can buy 100 per cent of it. Today, the Government is permitting 49 per cent equity even in Defence, but FDI is disallowed in the print media;

(iv) The financial investors are not looking for management control, but for financial reward. So, ownership is divorced from management control.

In this new age of information more and more newspapers are following multi-channel strategy and entering into synergy alliances because of compulsions of economics. There is today convergence and alliances in newspaper groups which produce multinational newspapers. Some newspapers in India have entered into indirect alliance with multinational newspaper groups. No media can grow without synergy alliance. Even today the print media is dependent on modern technological developments and on foreign news agencies who dominate the contents of our newspapers and so in a way they have become part of Indian print media;

(v) The Government should not try to regulate the capital structure of the Press. The print media should be free from shackles. In the garb of restructuring, the entry of foreign investment into the print media the Government is trying to control the financial and organizational structure of the Indian Press;

(vi) The freedom to receive and to communicate information and ideas without interference is a part of the Fundamental Right of freedom of speech and expression and it carries with it the right to gather information. So, keeping in view the citizens' right to receive information regardless of frontiers, it is necessary to open this sector to foreign investment;

(vii) Access to foreign capital will be of immense benefit to the Indian newspaper industry. Foreign money is likely to bring in more discipline, better corporate governance, better deal for consumers and better quality product. FDI will ensure modernization and professionalisation in this industry. The regional press which is the growth area stands to gain particularly because with the growth of literacy the readership will increase and the foreign investors would like to invest in the regional press and help them to grow;

(viii) While permitting FDI certain safeguards should be provided such as the control of editorial content should be with Indian nationals, the publisher and majority of the company's Board of Directors should be Indians, there should be a specified limit of foreign investment and the proprietorial interest should be retained by Indians. FDI should be permitted in phases beginning with 26 per cent. The investor should be a well known, credible institution rather than a person. It should be a listed company governed by disclosure norms and corporate governance. Further, there should not be automatic approval to prevent mafia money or money from countries which want to subvert democracy in this country. The proposal should go before the Investment Board which should ensure that only clean money comes in;

(ix) The foreign newspapers which are transnational corporations should not be allowed to start an unfair competition by undercutting prices with the backing of their huge resources. There is nothing which these corporations cannot purchase. Therefore, through a proper legislation we must prevent them from undercutting the prices and driving out of competition the Indian newspapers;

(x) A code of conduct can be formulated to ensure that the foreign owners show sensitivity towards Indian political, cultural and religious issues;

(xi) It is a fallacious argument that infusion of foreign money in the print media will result in the destruction of Indian culture. If FDI in television and other platforms of media is not destroying Indian culture how can it destroy the Indian culture if it goes to the print media? Indian culture is not a fragile toy. It has withstood the onslaught in the past and even now it is bravely facing the challenges from foreign television, INTERNET and international press.

Entry of FDI in print media has not harmed democracy or destabilized politics in other countries such as Japan, Thailand, Singapore, South Africa and countries in Europe. Foreign investors come here to make money and not revolution. It is only the monopoly houses which do not want to face competition who are opposing FDI in print media.

With 26 per cent equity, a foreign owner cannot control the newspaper or its editorial policy because his equity will allow him only to have one or two nominees on the Board of Directors. Thus, the Board of Directors will continue to be in the Indian hands.

The Views of the Ministries and Departments

23. The Cabinet Resolution of 1955 and the Cabinet Note preceding the same was a classified document till recently. However, through an official communication sent to the Committee Secretariat by the Ministry of Information and Broadcasting on 9 October, 2001, the Committee has been informed that this document has since been declassified. The Cabinet Resolution is quoted in full herein before. The Cabinet Note of 4 May, 1955 submitted by the Ministry of Information and Broadcasting reveals the thinking of the then Government on the issue of foreign ownership in print media and Indian edition of foreign newspapers and periodicals and it deserves to be quoted in full. It is as follows:

4 May, 1955

Ministry of Information & Broadcasting

Note to Cabinet

Foreign ownership of Newspapers and Periodicals

24. The Press Commission's views on foreign control and ownership are contained in paragraph 696 which is reproduced below:-

"696. Foreign Nationals on Owners: Another question that must be considered in this connection is the ownership of newspapers and periodicals by nationals of other countries and even by foreign governments. We consider it highly desirable that proprietorial interests in daily and weekly newspapers should vest predominantly in Indian hands. We consider the 'Statesman' a notable exception, which has for long been associated with Indian journalism and has become more or less an Indian institution. Even so, on general principles, we consider it desirable that there should be Indianisation both of capital and of the staff, especially at the higher levels. This would apply also to commercial and economic weeklies such as ‘Capital’, ‘Commerce’, etc. Similarly, we would view with disfavour any attempt to bring out Indian editions of foreign periodicals which deal mainly with news and current affairs. On the other hand, we see no objection to the publication of local editions of technical and specialist periodicals, with the participation of Indian capital and labour”.

It will be observed that the Commission wish to establish the principle of Indianisation of capital and staff not only in respect of papers of such long standing as the ‘Statesman’, but in respect also of commercial and economic weeklies. Secondly, they do not approve of any attempt being made to bring out Indian editions of foreign periodicals which deal with news and current affairs. It is evident that the expression, “periodicals dealing mainly with news and current affairs”, has been taken from the definition of newspaper as given in the Press and Registration of Books Act which is to the effect that newspapers means any printed periodical work containing public news or comments on public news. The Commission’s intention apparently was to include all categories of publications dealing with news. Elsewhere, the Commission have been proposed a watch to be kept on the reproduction in India of material obtained from foreign newspapers and agencies. They have, however, no objection to Indian editions of technical and specialist periodicals.

The first part of the above recommendation is in conformity with the general policy that foreigners should not be allowed to own and control undertakings which are or can be equally satisfactorily managed or owned by nationals of this country. That policy is all the more necessary in respect of newspapers which cannot be viewed merely as an industry since their true function is to influence the working of democracy by shaping public opinion. Foreign participation in ownership or control of newspaper would inevitably tend to be used for the purpose of influencing Indian opinion in support of the foreign interest and, in some cases, such participation could be at the instance of any foreign government also. Exclusion of foreign participation is envisaged even in the Convention of International Transmission of News and the Right of Correction adopted by the U.N. General Assembly in 1949 which declares that “nothing in the present convention shall limit the power of a contracting State to reserve to its nationals the right to establish and direct in its territories newspapers etc.”.

The other recommendation has several reasons in its support. In the first place, to allow Indian editions of foreign newspapers would in effect mean providing a battle ground for conflicting ideologies since no discrimination against particular countries is possible and commencement of such editions by newspapers of one country is very likely to lead to similar editions by those of other countries. Even if the Indian edition were to adopt the expedient of an Indian resident editor, action in respect of any matter appearing in the paper would create embarassment as, in substance, the action would be directed against the paper in another country. The effect on the Indian newspapers has also to be considered. Such editions, produced and disseminated with superior resources in finance and organisation, would offer unequal competition to established newspapers in this country, particularly when there is every likelihood of their being produced here without any motive of profit. Similarly, as has been demonstrated in the case of "Readers Digest", there will be a substantial diversion of advertisement revenue to the prejudice of the Indian Press. As the commission have pointed out in another place, contracts for the printing of foreign publications might serve as a large source of profit to the organisation thus benefited and, where these happen to be engaged in the publication of newspapers, it might act as a source of pressure on the editorial policy of the newspapers.

Opinion of the representative sections of the Indian Press which were informally consulted is strongly opposed to the idea of allowing Indian editions of foreign newspapers.

It may also be stated that although international or overseas editions have so far been produced in other countries, they are no-where meant for the indigenous population but are intended to cater for the needs of readers who are not served by local papers in their own languages.

The Ministry of Information and Broadcasting would therefore favour the acceptance of the policy formulated by the Press Commission of Indianising the capital and staff of newspapers in this country owned or controlled by foreigners, and of not allowing Indian editions of any foreign newspapers or periodicals, other than technical or specialist periodicals.

Attention may also be invited to the Commission's views regarding advertising agencies controlled, owned or managed by foreigners. The Commission have pointed out that such big agencies handle 50% of the total volume emanating from advertising agencies, and in the case of top papers, roughly 27% of their advertisement revenue is derived from these agencies. The Commission, therefore, recommend that they would like Indian capital and Indian Personnel are associated with these agencies. The Ministry of I&B would feel that the adoption of this recommendation as a matter of general policy is desirable as it will help in increasing Indian control of advertising interests.

The Commission have also dealt with the topic of material distributed by foreign governments including that published locally in the form of periodicals. They were generally of the view that such material should be confined to promote goodwill between India and the country concerned. They generally viewed with disfavour the dissemination of material which attempted to influence public opinion in India with respect to other foreign countries or touched on controversial subjects. They did not consider it desirable that any foreign Government should publish a newspaper or a periodical in India devoted to presentation of Indian news and views as such publication would inevitably involve the risk of participation in domestic controversies. They made particular mention of material which attempted to India's friendly relations with other countries or to interfere with domestic issues and they recommend that in all such cases it would be the responsibility of the Government of India to take up the matter with the foreign Government concerned. The External Affairs Ministry have confirmed that their present practice is in conformity with the views expressed by the Commission.

Approval of the Cabinet is sought to the adoption of recommendations of the Commission in all these respects as the guiding principles of policy.

Ministry of External Affairs have been consulted and have concurred.

Ministry of Information and Broadcasting has approved**"**.

25. The views of the Department of Company Affairs, the Department of Legal Affairs, the Ministry of Information and Broadcasting and Ministry of Home Affairs were placed before the Committee through written documents as well as personal appearances by the officers.

26. Giving its perspective on the issue of removing the restrictions on foreign ownership of newspapers and periodicals and also on Indian editions of newspapers and periodicals which dealt with news and current affairs, the Ministry of Information and Broadcasting stated in a written reply sent to the Committee as follows:-

"It has been the view in the Ministry that restrictions on foreign ownership of newspapers and periodicals as also on Indian editions of foreign newspapers and periodicals which dealt mainly with news and current affairs envisaged in the Government policy on print media enunciated in 1955 was based on very valid grounds that at that stage Indian newspaper/periodicals as well as publishing industry was in its infancy and Indian companies were comparatively much smaller and financially weak. Entry of foreign companies or newspapers/periodicals at that stage would have easily swamped Indian companies and Indian newspapers/periodicals. The concern of the first Press Commission for Indianisation both of capital and of the staff was also an understandably valid consideration at that time. However, the situation in the country has changed greatly since 1955. Books and periodicals can be now freely imported in the country. Many newspapers and periodicals are available on Internet. A large range of information and news is also available to citizens without any restriction on radio and TV channels. Therefore, the suggestion for taking another look at the Print Media Policy enunciated by the Government in 1955 keeps coming up before the Government from time to time. However, opinions on this subject have been sharply divided".

27. The reply further says that there is a contradiction in allowing the publication of some magazines and at the same time continuing with the policy of 1955:

"During the last few years permissions for publication of magazines-Cosmopolitan and Elle—have been issued in an isolated manner. While considering the matter of renewal of permission for printing of Cosmopolitan in 1999 it was felt that there is some contradiction in granting permission to these magazines while continuing with the policy of total prohibition as required by the policy statement of 1955. Therefore, it was felt that a fresh consideration of Print Media Policy of 1955 should be thought of so that there are no contradictions between the policy and implementation. The Ministry has not, however, made any proposal to the Cabinet yet in this regard"

28. The Cabinet Resolution of 1955 uses the term "foreign-owned companies". A question was put to the Department of Legal Affairs to explain this term. The Department in its written reply stated as follows:

"The Companies Act, 1956 does not define the term 'foreign-owned company'. Section 3(1)(i) of this Act defines 'company' to mean a company registered under this Act. According to section 591, a company incorporated outside India is a 'foreign company'. The Companies Act does not contain any prohibition on foreigners holding equity shares in a company registered in India. As per section 41 of the Act, every person holding an equity share in a company is a member of that company. The fundamental attribute of a corporate personality is that it is a legal entity distinct from its members. On incorporation, the corporate property belongs to the company and the members have no direct propriety right in it, but merely to their shares in the company. Though the shareholders own their shares, they do not own the company. However, as per section 87, every member has a voting right proportionate to his shares".

29. The Department of Company Affairs explains this term as follows:-

"There is no definition of ownership under the provisions of the Companies Act, 1956. However, in the business parlance ownership is considered mainly on the basis of holding shares and controlling board of directors. In this connection, it may not be out of place to mention the meaning of holding company and subsidiary company as indicated in Section 4 of the Companies Act, 1956. A company shall be deemed to be a subsidiary of other company if that other company controls the composition of its board of directors or where the first mentioned company is in any other company holds more than half in nominal value of its equity share capital or the first mentioned company is a subsidiary of any other company which is that others subsidiary. As such the controlling relation to a company ordinarily means the possession of power by the exercise of voting rights to carry a resolution at a general meeting of a company".

30. On a question whether minority equity holding by foreigners in an Indian company will make it a "foreign-owned company" and thus will violate the Cabinet decision of 1955, the Department had this to say,

"A company registered in India shall remain so even if foreigners acquire or hold equity shares in it. But if such shareholding exceeds 25 percent, the foreigners could block a special resolution of the company [Section 189(2)(c)]. It may further be stated that even if more than 50% shares are owned by the foreigners in a company registered in India, that company will continue to be a company incorporated in India under the Companies Act. But as a result of ownership of the majority shares held by the foreigners, the control may also pass on to them. In such a situation, in general parlance a company could be said to be owned and controlled by the foreigners. Further, there may be a case in which foreigners have less than 50% shares, and by a shareholders agreement or a loan agreement the control and management of company is transferred to the foreigners. In both the above situations a view may be taken that the transfer of control of such a company would be against the Cabinet decision of 1955".

31. On the impact of a loan taken by an Indian Company from FIIs, OCBs and NRIs, the Department says,

"Section 81(3)(b) of the Companies Act, 1956 enables a company to issue shares to debenture holders and creditors in exchange for the amount due to them. It would thus be open to FIIs/OCBs/NRIs to acquire shares in an Indian company through loan agreements.

If such loan agreement contains a conversion clause or transfer of management/control to the foreigners then it will go against the said Cabinet decision".

32. However, the Department of Legal Affairs, in reply to a written question on legal prohibition of foreign equity participation in the Indian print media stated that foreign participation in an Indian print media company is not prohibited. The reply is as under:-

"Foreign equity participation in an Indian company would attract the Foreign Exchange Management Act (FEMA), 1999 and Regulations made thereunder. Apart from that the Press & Registration of Books Act, 1867 regulates printing presses and newspapers printed in India, and it also provides for registration of newspapers and books. This Act requires the printer and the publisher of a newspaper to make a declaration before the local Magistrate. Where the printer/publisher is not the owner, the declaration shall also specify the name of the owner, and shall be accompanied by an authority in writing from the owner authorising such persons to make the declaration. The declaration is to be made by a person who ordinarily resides in India. If the printer/publisher leaves India for a period exceeding 90 days, a new declaration will be necessary, and the Magistrate will cancel the existing declaration. A person who does not ordinarily reside in India cannot also edit a newspaper. It would be seen from the foregoing that what this Act requires is that the printer, the publisher and the editor should be ordinary residents of India. There is no requirement that they should be Indian citizens. Moreover, the owner of a newspaper need not necessarily himself be its printer, publisher or editor. The Act does not contain any requirement of residence or citizenship on the owner of the newspaper. Subject to the foregoing the foreign equity participation in an Indian print media company is not prohibited".

33. But it is interesting to note that in another communication which was sent by the Department of Legal Affairs to the Ministry of Information and Broadcasting on 31 July, 2001, a copy of which was made available to the Committee secretariat, states the position on the above question differently. It says,

"It is not clear from the Cabinet decision whether foreign equity holding in a print media company is completely prohibited, or is restricted to the extent of management control".

34. As regards the possibility of acquiring controlling interest in a company by foreigners without having 51% of shareholding, the Department of Company Affairs in a written reply said that effective control can be secured in different ways without having majority shareholding. It says,

Controlling Interest:

"The holding of a majority power in a company is sufficient to constitute controlling interest and it is not necessary to have such shareholding as would secure the passing of a special resolution for which special majority is required. A relationship, which brings out control in effect by whatever machinery or means that result is effected, is sufficient. The degree of control resulting from 51% holding is control within the Act.

Control through Nominee Directors:

Where a company appoints Additional Directors as the nominees of another company and these nominees constitute the majority of the board the nominated company becomes the holding company within the meaning of Section 4 notwithstanding that the nominees would hold office only upto next AGM.

Where Memorandum and Articles of Association provide i.e. board of directors to be constituted only by the nominees of another company's board of directors the former company will become subsidiary of the latter.

Controlling Composition of Board of Directors:

Under sub-section 1(A) of Section 4 a company shall be deemed to be a subsidiary of another company if and only if that other company control the composition of the board of directors of the first mentioned company. The company, which controls the composition of Board of Directors of the other company, is holding company and the other company would be subsidiary.

Foreign holding of a subsidiary:

Where according to the law of a foreign country, a company (whether incorporated in that country or not) is treated as holding company or the subsidiary of a company incorporated in that country, it will also be so treated for the purpose of Companies Act even though it may not satisfy the requirements of this Section.

Since there is no such definition under the Companies Act, it has to be construed by controlling the company's affairs even by the nominee directors which may not be holding any financial stake in the company but by controlling the board itself they become controller of the company as had been the practice even by holding 6% to 8% of the equity group used to manage affairs of the companies like DCM, Escorts etc".

35. The view of the Department on the question of foreign ownership of the Indian print media was communicated to the Committee on 27 July, 2001 in one of the replies as follows:

"So far as matter relating to print media sector for foreign ownership is concerned, it will not be in the interest of the country to provide such facilities as it will give wrong signals all over the world and whatever way they wish they can twist the information / facts and publish. It will in the long run even affect the sovereignty of the country. Therefore, such liberalization may not be worth considering to foreign owned newspaper. The decision taken in the year 1955 was a considered view keeping in mind national interest of the country. However, there is no prohibition from incorporating a company with the object of print media sector".

36. In the context of the demand (voiced by a section of the media) for foreign equity the Committee wanted to know from the Government how many of our newspapers would be able to take advantage of foreign equity, if permitted, and whether any study has been done on the financial requirements of the newspapers.

37. The Secretary, Ministry of Information & Broadcasting said that no such study has so far been done.

38. The Ministry in reply to a question about the allegation that the blanket ban on FDI in the print media is favouring only the monopoly houses in the country, stated as follows:

"It is wrong to see monopoly influence in Indian newspaper industry. There are 46,655 registered newspapers in India. The largest newspaper has a circulation of only 6.4 lacs. The argument that blanket ban on foreign direct investment in print media is only favouring some monopoly Indian print media companies is not really factually correct. While some of the largest newspapers have been expressing themselves strongly against opening up of print media for foreign ownership/participation, the Press Council with majority of representation of small/medium newspapers has also been against opening up of print media for foreign direct investment. The All India Small & Medium Newspapers Association, Indian Federation of Small & Medium Newspapers and All India Small & Medium Newspapers Federation through their letters dated 5.8.1994, 4.8.1994 and 4.8.1994 respectively have conveyed their opposition to the entry of foreign print media in the country. A Resolution of the National Union of Journalists adopted at its 12th Biennial Conference held from 3-5 November, 2001, opposed the entry of foreign print media in India".

39. The Committee examined the angle of security involved in foreign participation in the Indian print media. This question was addressed to the Home Ministry. In the deposition before the Committee on 5 October, 2001 as well as in a written communication dated 15 October, 2001, the Ministry of Home Affairs stated as follows:

"The present internal security scenario of the country is not conducive to relaxations in the existing policy with regard to management control by foreigners or to foreign direct investment in the print media. However, in case the administrative Ministry proposes to relax the existing policy in this regard, necessary safeguards will have to be put in place, in consultation with the Ministries of Home Affairs, External Affairs and Defence, against possible misuse of the print media for purposes prejudicial to the security of the State, public order, communal harmony, relations with other countries, etc.**"**.

<u>Views of the Press Council of India</u>

40. The Press Council of India considered the issue of "Indian edition of foreign publications and flow of news from foreign news agencies" in 1992 and came to the following conclusions:

"Publication of foreign papers/journals in India involving equity and management participation was also not favoured**"**.

"Printing of foreign journals in India was again felt to be undesirable, though a few members did express the view that this might be permitted with suitable safeguards pertaining to such matters as national employment and repatriation of profits, or on a case by case basis by an Advisory Committee**"**.

41. **<u>The arguments advanced by the witnesses who opposed the entry of foreign media and foreign investment are given below:-</u>**

i) There has been a broad consensus among the major political formations against the entry of foreign media or foreign investment in the print media. Even in the post liberalization era the successive Governments endorsed the policy contained in the Cabinet Resolution of 1955. Further, the Indian Newspaper Society (INS), the Editors' Guild and the Press Council of India have been consistently supporting this policy since 1955. The Second Press Commission had in fact suggested that a debarring law should be made to keep the foreign interest out of the Indian print media.

ii) Entry of foreign capital in the print media will be the thin end of the wedge. There is a danger of reporting events in the manner as to propagate the views of vested interests from abroad prejudicial to the national interests.

iii) The Government of India and the financial institutions in the country are strong enough to support the financial needs of the Indian print media.

iv) The Multi-national Companies (MNCs) are spending huge amount on advertisements through print media. If foreign newspapers are allowed to be printed in our country or foreigners are allowed a stake in the newspapers, these MNCs will patronize only them and thereby influence them to toe their line. This will ultimately lead to interference in the political process also.

v) Once the door is open for the foreign interests, there is no way we can stop them. So foreign equity participation should be completely opposed. The foreign owned newspapers will wipe out the other Indian newspapers, big or small. It makes no difference whether the foreign money comes through the route of FII or the FDI or even the NRI. When a major policy of this kind is debated, the adverse possibilities should be taken into account. For example, there is no way we can prevent a foreign intelligence agency from using fronts to enter into the print media sector unless we shut the door completely against foreign equity participation.

vi) In case of minority shareholding the condition that management and Editors should be Indian is not enough. That provision exists in the Law already. It is not enough because it is a relation between unequals. It will not eliminate the situation of dependence – technological, editorial and also in terms of brand image etc.

vii) The argument that "because you cannot control INTERNET and satellite TV what is the point in imposing any control at all" is not a valid argument. The argument that in a liberalized economy the media must follow the general trend is a non-starter. The media is the life blood of democracy. It requires certain protection.

viii) The media is a small and medium sector which does not require vast investment. As regards technology, the only technology that matters is native intelligence and ability to write and communicate.

ix) The motive of foreign investors is not to make money as there is not much money to be made in the Indian print media. The foreigners would come only to have some influence over the Government of India, over the hearts and minds of the people of India. We cannot encourage it in any case. We have to look at the concern of the Indian people and not at the concern of a few press barons who want to sell their shares for a profit.

x) The media monopoly system is a big threat. The 'New York Times' or the 'Washington Post' has got a sale of 3 billion dollars to 4 billion dollars whereas the largest print media house in this country has got a sale of only Rs. 800 crores. If the foreign print media companies come with their dollars, they can develop a media monopoly.

xi) The role of print media in opinion making is very significant and different from that of TV. The editorial pages of newspapers are serious pages and the people who read them are the opinion makers. The editorials have far reaching impact and importance. TV broadcasting does not have that kind of scope. Its role is different.

As far as public debate on issues is concerned, it takes place primarily on what is printed and not on what is seen on TV. Television is largely on the entertainment mode. It is the print media alone which gives certain things not available on TV like the perspective, diversity of opinion, analysis and background.

(xii) It makes no sense for anyone to say that FDI is needed to get the most advanced technology. Nothing prevents us from buying any kind of technology. In fact, today the finest technologies are being used by some of the regional newspapers. Similarly, the production quality of some of the regional newspapers is world class.

(xiii) FDI should not be allowed if we want to retain the multi-ethnic, multi-religious, multi-cultural society. The foreign investors may dabble in our democratic process and the social harmony which our national press has helped nurture may be destroyed.

(xiv) Newspapers are cultural/intellectual products. They are means through which the community communicates. They constitute the soul of the people. They express the values and way of life of a society and nation and in turn influence the people of that society. They are the medium through which ideas, values, social and political institutions are communicated and handed down from one generation to another. As such they are an extension of the public life of a society. Therefore, the question of allowing free entry to foreign media cannot be considered merely in the context of the policy of liberalization.

(xv) Freedom of the press which is a part of the Fundamental Rights is primarily meant for the citizens of India and it would be a very sad day if we allow this freedom to be enjoyed directly or indirectly by foreigners for consideration of commerce.

(xvi) We should not allow FDI in mass circulation newspapers. FDI will slowly change the character of the newspaper. Australia, for example, has prohibited FDI in mass circulation newspapers. Further, the newspapers may have agreements with the foreign investors which may not be disclosed. They will slowly change the Editors and appoint people of their choice. We cannot allow this to happen.

(xvii) It is very dangerous to allow foreign investment with a cap because the laws can be easily circumvented through various methods. So, this is not the time to allow any kind of foreign media investment. Further even if there is one per cent equity ownership which is foreign it amounts to ownership. Once they enter they may tie up with others and the next step will be assuming control

(xviii) There is urgent need for a **comprehensive communications policy**.

(xix) There is an unfair competition developing in the print media which goes against the interest of smaller newspapers. If the foreign investment is allowed, the hold of monopoly will get further strengthened which will target basically the small and medium newspapers.

To deal with the monopoly in the domestic print media and protect the small newspapers, a **Media Commission** should be set up.

CHAPTER - IV

CONCLUSIONS AND RECOMMENDATIONS

42. The Committee gave serious consideration to the different views and perspectives presented by various eminent individuals as well as representatives of prominent newspapers who appeared before it. The Committee has also carefully gone through the written material submitted by various parties on the issue. We are happy that this study undertaken by the Committee has evoked nationwide interest which only underscores the crucial importance of the subject.

43. During its interactions with people from the print media a point was often raised as to whether the print media is more powerful or the electronic media in the matter of influencing the public mind. The argument advanced by those who supported the entry of foreign media or foreign investment in the print media is that since the foreign entry into the electronic media has been permitted there is little sense in insulating the print media against the foreign entry. According to them, the hold of electronic media on the public mind is far greater than that of the print media. On the other hand, those who are opposed to the foreign investment argue that the influence of the print media on the public mind is far greater than that of the electronic media and the entry of foreign media companies in whatever form will ultimately succeed in manipulating the minds of the people and destroying our culture.

44. With the opening up of the electronic media there is an unrestricted availability of TV Channels in the country. It is difficult to say at this stage what long term impact it will have on the public mind. The chief attraction of television is the visual images it presents. There is no doubt that visual images of certain events are very powerful, for instance the visuals of war scenes like in Kargil. It is, however, a matter of common experience that the effect of visual images has a tendency to wear off in course of time. Further, the visuals by their very nature give a rather fleeting view of the situation and it can have effect only on the viewers for the time being. The written words, on the other hand, give the readers different dimensions of the situation with more lasting impression. These have the potential at all times to evoke deeper feelings, stimulate the thinking and in the long run

condition the mind to accept the ideas they contain. There cannot be any doubt that the feature articles and the editorials in a newspaper have the power to influence the readers' mind deeply which the ephemeral images on a TV screen do not have. A book on Auschwitzh, or, on Kargil, for example, creates a more powerful and long-lasting impact on the mind than the visuals thereof. Therefore, it is incorrect to assume that the electronic media has greater impact on the public mind than the print media.

45. It has been argued before the Committee that the logic of the Cabinet Resolution of 1955 is no longer valid in the present times as the country is firmly set on the path of globalization. Therefore, so goes the argument, the time has come for us to review the whole policy of foreign investment in the print media.

46. The Cabinet Resolution of 1955 in respect of the publication of foreign owned newspapers etc. was adopted on the basis of the recommendations of the Press Commission appointed in 1953. This Resolution remained the basis of the media policy of the Government so far. The Committee finds that although the Government attempted to review this policy at different times, no consensus could be arrived at and the general view that emerged on all those occasions was that entry of foreign print media or foreign investment in the print media was not a desirable step.

47. The whole debate on the entry of foreign media revolves around this Cabinet Resolution of 1955. This Resolution has two limbs. One, no foreign owned newspaper or periodical should in future be permitted to be published in India. Two, foreign newspapers and periodicals, which dealt mainly with news and current affairs should not be allowed to bring out Indian editions. As far as the question of foreign newspapers and periodicals being allowed to bring out Indian editions is concerned, there is almost a consensus against this proposition. So, the Committee addressed itself mainly to the first limb of this Resolution. There was considerable discussion in the Committee on the precise nature of the prohibition imposed by this part of the Resolution. The discussion turned on the precise meaning of the term "foreign-owned" used in the Resolution. Representatives of the Ministry of Law, Justice and Company Affairs stated before the Committee that there is no concept of

ownership in the Companies Act, 1956 as the company is a legal entity distinct from its members. The Act, therefore, does not define the term "foreign-owned". The Committee has been further informed by the Ministry that this term, not being a statutory term, should be understood in its ordinary sense, namely, a company in which foreigners have control on the management. It has been clarified by the Ministry officials that the control on management by foreigners can be exercised not only by owning 51% of the equity, but also through shareholders' agreement or loan agreement which may confer such control and management of the company on them, though their shareholding may be less. This, the Committee has been told, would go against the Resolution of 1955.

48. The Committee has endeavoured to address the question of entry of foreign investors into the Indian Print Media sector fully taking into account both the contextual significance of the Cabinet Resolution of 1955 and the reality of globalization. As regards the prohibition imposed by the Resolution on foreign-owned companies, the Committee agrees with the proposition made by the Ministry that the Resolution forbids foreign investors gaining control of management of Indian Print Media companies irrespective of the size of their shareholdings. The Committee has also been informed that the Reserve Bank of India has, through a notification issued on 16th February, 2001, imposed a total ban on the FIIs, NRIs etc purchasing any shares or debentures of an Indian Company engaged in the print media sector. Thus, the Government has already acted on the basis that no foreign investment can be allowed in the print media sector under the 1955 Resolution.

49. However, the Committee has examined this question in all its dimensions. Some of the witnesses who appeared before the Committee have said that foreign investment should be allowed but with a reasonable cap put on the foreign shareholding. Under the Companies Act, 1956, if anyone holds more than 25 per cent shares he can block a special resolution. So, these witnesses said that there is no harm in allowing a foreign company to have equity holding upto 25 per cent with a stipulation that the management of the Indian company will be in the hands of Indians.

50. The Committee is not convinced by this argument. The Committee is of the view that the foreign investor, even with a minority shareholding can gain effective control of management and the Editorial Board of the newspaper through shareholders' agreement or loan agreement. The Department of Company Affairs through a written note has drawn the attention of the Committee to the fact that groups which had only 6% to 8% of equity used to manage the affairs of the companies like DCM, Escorts etc. Further, it has also been stated by the Ministry that a company can be controlled by an agreement without any induction of funds even on the basis of technical know-how. So, the Committee does not agree with the proposition that it is safe to permit up to 25% foreign equity in the print media.

51. The report of the First Press Commission suggests that newspaper is not one of the most attractive investment destinations. The Commission after carefully studying the investment pattern in the newspaper industry indicates that an investor may choose a newspaper for investing with a view to influencing public affairs. The influence which great newspapers and the media barons wield in the Western democracies is phenomenal. The Committee feels that the foreign investor who comes forward to invest in the Indian newspaper industry will do so not merely by the lure of returns, but because of the tempting prospect of gaining enormous clout in the socio-political life of this country.

52. Serious apprehensions about a cultural invasion were expressed by some prominent witnesses who appeared before the Committee and the same cannot be ignored as a figment of imagination. Counter arguments that the Indian culture is too strong to be invaded or destroyed and that the opening up of the electronic media has not resulted in the destruction of our culture do not reflect a deeper understanding of the complexities of the problem. One, it is too early to evaluate the long term impact of the liberalization of the electronic media. Two, the capacity of the print media to deeply influence the public mind is a universally recognized fact. The Committee, therefore, feel that the entry of foreign investment or foreign media has the potential of polluting the cultural life and changing the basic orientations of the Indian mind in the long run.

53. A section of the media views the whole issue of entry of foreign media merely as an issue of investment in a resources starved business sector. In this context, the Committee would like to refer to a letter written by five leading publishers of newspapers and periodicals to the Minister of Information and Broadcasting who forwarded the same to the Committee for its consideration. The burden of this letter is that the entire category of investors as well as the venture capital funds etc. were non-existent in 1955 and therefore a policy framed at that time could not have been meant to cover such portfolio investors and investment by these categories is already allowed in the most powerful media today, namely, TV, INTERNET, DTH etc. The signatories to this letter, therefore, requested the Government to permit portfolio investment by FIIs, NRIs and OCBs in the print media. The Committee do not view the print media sector as any other productive sector where infusion of foreign capital may be permitted. The Committee has already pointed to the dangers involved in allowing foreign investment in the Indian print media by any category of investors. The print media, the Committee believe, has a larger dimension than a mere profit making venture and therefore the simple logic of investment and dividend does not fit in with the nature of this operation. For that very reason the perceived advantages of foreign institutional investment over foreign direct investment or vice-versa are not a relevant consideration. Further, the task the Committee set itself was not merely to examine whether foreign portfolio investment or Foreign Direct Investment is or is not permissible under the Cabinet Resolution of 1955. The Committee has examined the whole issue of foreign investment in the print media in the total context of the liberalization of the Indian economy. The Cabinet Resolution undoubtedly is a major reference point and an important context in the history of media policy but the Committee has addressed this issue with the informational needs of the Indian society in the new socio-cultural and economic environment in focus. The Committee believe that allowing foreign investment in any form in this sector has far-reaching implications and an attempt to separate the issue from its implications is not the best example of farsightedness.

54. As regards the position of resources in this sector, records show that there has been a phenomenal growth in the number of newspapers and circulation over the

past 50 years. The most reasonable conclusion, then, is that lack of foreign investment has in no way affected the growth of newspapers in the country. Newspapers have grown in strength using domestic resources. As per an estimate in terms of the number of newspapers published and also total circulation, India is among the top four countries in the world. The other countries are, Japan, the United States and China. There are 50,029 registered newspapers in India. The Committee, therefore, does not think that in the absence of foreign investment the newspaper industry in India will face ruin. Further, not much enthusiasm has been shown for taking loans or financial investment simply because it will entail payment of interest and other returns.

55. The Committee examined the question as to how widespread is the demand for foreign investment/participation in the print media. As per the documents submitted to the Committee by the Government, apart from some of the largest newspapers, the Press Council which represents a majority of small and medium newspapers, the All India Small and Medium Newspapers Association, India Federation of Small and Medium Newspapers and All India Small and Medium Newspapers Federation as well Indian Newspaper Society (which is treated as the representatives body of the Indian Newspaper Society) have opposed the entry of foreign print media in the country. The document also says that a Resolution of the National Union of Journalists adopted in November, 2000 opposed the entry of foreign media. The Committee find that these are true representative bodies of the print media in the country and therefore, their opinions on this issue cannot be lightly dismissed.

56. The Committee, however, recognizes the problem of finance which affects the small and medium newspapers in the country. The Second Press Commission went into this problem in detail and made certain recommendations. The Commission found as a fact that the smaller newspapers suffered on account of inadequacy or non-availability of finance whereas the fruits of growth have by and large gone to the big newspapers. The Committee, therefore, feels that the problem of finance for the small and medium newspapers needs to be seriously looked into. The Committee finds that the Press Council had suggested the setting up of a Newspaper Finance

Corporation to meet the financial needs of the newspapers and a Bill for this purpose was introduced in the Lok Sabha in 1970. With the dissolution of the House, the Bill lapsed, but was re-introduced in 1973. However, the Government did not proceed with this matter and the question of financial assistance to the newspapers remains unaddressed. The Committee feels that the Government should seriously consider this problem and make institutional arrangements for concessional finance for small and medium newspapers so that the working capital and other essential financial needs of such newspapers could be met.

57. The Committee has endeavoured to address the question of entry of foreign print media or foreign investment in the print media in its totality. It has considered the circumstances under which the Cabinet Resolution of 1955 was adopted; the breathtaking advances that have taken place in the technology of communication; the pace and sweep of globalization of economy; the liberalization that has taken place in the electronic media and its power vis-à-vis that of the print media to influence the mind of the people; and also the information policy imperatives in a liberalized and globalised ambience. Having considered all this, the Committee has come to the conclusion that the entry of foreign media is not in the long term interest of the country. The Committee is of the firm view that newspaper is different from steel or electricity which may be allowed to be produced by foreign investors. Newspaper has significant impact on the minds of the people. It influences the political beliefs, the social mores and the basic cultural impulse of the people. The foreign print media owners or the foreign investors with their superior technology and managerial skill and unlimited resources can neutralize any statutory restrictions which may be imposed and become crucial players in the domestic print media sector. Further, the hostile countries through their intelligence agencies can use front organisations to enter the Print Media sector through the foreign investment route and undermine the unity of the country. They can do incalculable harm to the fragile social harmony by purveying slanted and mischievous news and views. Thus Print Media can be used by them as an instrument of subversion. This adverse possibility has been brought to the notice of the Committee by some witnesses. The Committee has also taken note of the fact that even those who

advocated the opening up of this sector to foreign investors wanted a cap on such investment because they wanted the entire management of the newspaper to remain in the Indian hands. The Committee took careful note of this point. This only underscores the fact that there is a consensus on the point that control of the management of a newspaper in the hands of the foreigners is not in the interest of the country. Whether 10% of the shareholding will enable the foreign company to control the management or 51%, entry of foreign interest in the domestic print media sector is detrimental to the interest of the country. The Committee feels it is pointless to argue that foreign equity up to 25% is safe and is unsafe beyond that.

58. Almost all the witnesses who appeared before the Committee and who are in favour of permitting foreign participation and investment, categorically stressed on the imperative need of having Indian editors, Indian managers and Indian publishers with emphasis that overall management should remain in Indian hands and the policy decision should be under the control of Indians. Such views clearly highlight the importance of retaining the Indian control over the newspapers published in India. The insistence on having Indian management and particularly the control on the editorial and the overall policy being in Indian hands underline the dangers that may be faced affecting the national interests if such control is passed on to the foreigners, be they shareholders or investors. The Committee is of the view that the insistence on retaining the editorial and the management control in the hands of Indians, even after foreign entry is permitted, clearly emphasises the dangers of opening the doors to the foreigners.

59. The Committee gave serious consideration to the possible impact of liberalization in the print media on the security situation in the country. The Home Ministry official stated before the Committee that as people tend to rely more on printed version of facts an attempt at disinformation will have tremendous impact on the people and it will be more difficult to control it. So, in the view of the Home Ministry the internal security scenario is not conducive for an opening up of the print media sector. The Committee feels that the perception of the Ministry of Home Affairs about the security implication of allowing foreigners to operate in the print

media is based on a realistic understanding of the ground reality. The Committee is in full agreement with this view.

60. The constitutional angle of this issue was also placed before the Committee. Dissemination of information being a part of the Fundamental Right of freedom of expression, Press in India enjoys Fundamental Right enshrined in the Constitution. However, the Fundamental Right to freedom of expression is available to Indian citizens only. This means a foreigner who comes to acquire control of the Indian newspaper through whatever means cannot enjoy the freedom of expression and thus cannot run the newspaper in the country.

61. **The Committee has taken note of the view expressed in some quarters that foreign magazines of scientific and technological character may be published from India and no restriction should be imposed on the same. However, the Committee is of the view that no unrestricted permission should be given even to such publications as that will open the door for entry of foreign magazines dealing also with matters not scientific or technical as otherwise non-scientific and non-technical subjects can be included transforming its contents by the foreign publishers. However, with a view to enable serious students to have access to high level of scientific and technological publications at cheaper prices, foreign magazines dealing with those subjects only may be allowed to be published provided they enter into collaboration with Indian publishing house(s) dealing with such scientific and technological subjects.**

62. **To sum up, the Committee is not in favour of allowing the foreign newspapers and periodicals which deal mainly with news and current affairs to bring out Indian editions or foreign shareholding in any form in the Indian Print Media sector. The Committee, however, thinks that publication of foreign scientific and technical magazines can be allowed for the benefit of the students of science and technology and the scientific community in collaboration with well known or competent Indian publishers dealing with such subject. The Committee also recommend that the Government consider suitable measures to deal with the problems of shortage of capital being faced by the small and medium newspapers in the country. In particular the Government should consider putting in place an**

institutional arrangement for concessional finance for these categories of newspapers.

63. **Finally, the Committee feels that there is a need for a comprehensive print media policy. The Cabinet Resolution of 1955 laid down the basic approach in regard to the entry of foreign print media. But it remains an inadequate basis for such a policy in the new situation. There are new contexts and new challenges in the 21st Century which call for new and adequate responses from the Government.**

64. **The Committee calls upon the Government to formulate a comprehensive print media policy so that there is a healthy growth in the media sector which will take care of the information needs of the society in the new millennium as well as protect the essentially pluralistic cultural traditions of India and its ethos.**

New Delhi	**SOMNATH CHATTERJEE,**
20 March, 2002	**CHAIRMAN,**
29 Phalguna, 1923 (Saka)	STANDING COMMITTEE ON INFORMATION TECHNOLOGY