The Indian Entertainment and Media Industry

Unravelling the potential

FRAMES 2006

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March 2006

Foreword

Welcome to the 2005 annual edition of the Indian Entertainment and Media (E&M) Industry Report. FICCI takes this opportunity to thank PricewaterhouseCoopers, our Knowledge Partners, for having devoted precious time and resources to prepare this report at our behest.

The E&M industry is at an inflexion point today, as opportunities and growth embrace all its segments. The Indian film industry is witnessing increased corporatisation and several companies, especially those in film distribution and exhibition, came out with IPOs in 2005. The country is today producing some of the finest films based on varied subjects and winning accolades on all counts.

The television industry is witnessing the mushrooming of more niche channels. Here again, emerging technologies such as broadband, DTH, IPTV and digitalisation will bring about more growth.

The radio industry saw a lot of action, with as many as 338 FM radio licenses being up for grabs across the country. This year, we have a chapter on the print media. Last year, after much lobbying, foreign investment was allowed in the news segment. With growing literacy and rising interest in India, this sector of the E&M industry is poised to witness growth.

Each chapter also has a section on key international trends in order to provide a global perspective to the various segments within the E&M industry. We thank PricewaterhouseCoopers for drawing the necessary knowledge from their global resources for this endeavour. Their effort to present the content of the report in an interesting, useful and easy-to-read manner will be appreciated not just by the industry people, but the public at large.

FICCI acknowledges the valuable inputs provided by members of the Entertainment Committee and all other associated agencies and industry players who have provided information and support to PricewaterhouseCoopers in preparation of this report.

Yash Chopra
Chairman
FICCI Entertainment Committee

Kunal Dasgupta
Co-Chairman
FICCI Entertainment Committee

Preface

We are pleased to present the FICCI-PricewaterhouseCoopers' *Indian Entertainment and Media industry - Unravelling the potential.*

Through this year's report, we have tried to unravel the tremendous potential of the Entertainment & Media (E&M) industry. The E&M industry in India has been growing faster than the Indian economy. The Government, on its part, has taken several positive measures in 2005 including liberalising the foreign investment regime and resolving some of the regulatory bottleneck in certain segments of the industry and is currently working on other policy initiatives to give a further impetus to the industry. With concerted efforts by industry players on deterrents such as piracy and other challenges, the E&M industry has the potential to evolve into a star performer of the Indian economy.

This year's report also looks at the print media and has an additional chapter on emerging segments in the E&M arena. The report has identified key trends, developments and challenges in each sector of the E&M industry and has given forecasts for the next five years – till 2010.

Since much of the industry does not have an organised body, lack of a centralised tracking agency that could provide us with accurate figures was the biggest challenge before us to compile figures and determine the size of each segment. This challenge was exacerbated by the fact that most companies in the industry do not have their financial information in the public domain. We thus prepared this report on the basis of information obtained from key industry players, trade associations, government agencies, trade publications and industry sources.

Through this report, we have also analysed the Indian E&M industry in the backdrop of key international developments. Forecasts were made on the basis of models developed by PwC, that quantified the impact of factors on the growth of each segment, Our professional expertise, institutional knowledge and global resource pool were then applied to review and adjust those values, wherever required. The entire process was then examined for internal consistency and transparency vis-à-vis prevailing industry wisdom.

We would like to thank all the industry players who enthusiastically participated in providing us the inputs that helped us in putting together the contents of this report. We would also like to thank FICCI and its Entertainment Committee for giving us the opportunity to present this year's report. The FICCI-Frames report has acquired the status of an E&M industry ready-reckoner and we are proud to be an integral part of this report for the second consecutive year.

Rathin Datta
Chairman & CEO
PricewaterhouseCoopers Pvt. Ltd.

Deepak Kapoor
Executive Director &
Leader - Entertainment & Media Practice
PricewaterhouseCoopers Pvt. Ltd.

“And in my opinion, entertainment in its broadest sense has become a necessity rather than a luxury in the life ...”

Walt Disney

Contents

“For development to become a national obsession, the tyranny of bureaucracy and stranglehold of corruption has to end….

…How long will we remain content celebrating our potential even as we restrain ourselves from realising it?”

Manmohan Singh
“Towards a Creative and Daring India”
in 30th Anniversary issue of India Today

1

Executive summary

Indian Entertainment and Media Industry

The Indian entertainment and media (E&M) industry has out-performed the Indian economy and is one of the fastest growing sectors in India. The E&M industry generally tends to grow faster when the economy is expanding. The Indian economy has been growing at a fast clip over the last few years, and the income levels too have been experiencing a high growth rate. Above that, consumer spending is also on the rise, due to a sustained increase in disposable incomes, brought about by reduction in personal income tax over the last decade. All these factors have given an impetus to the E&M industry and are likely to contribute to the growth of this industry in the future. Besides these economic and personal income-linked factors, there are a host of other factors that are contributing to this high growth rate. Some of these are enumerated below:

A. Low media penetration in lower socio-economic classes (SEC)

Media penetration varies across socio-economic classes. Though media penetration is poor in lower socio-economic classes, the absolute numbers are much higher for these classes. Hence, efforts to increase the penetration even slightly in these lower socio-economic classes are likely to deliver much higher results, simply due to the higher base.

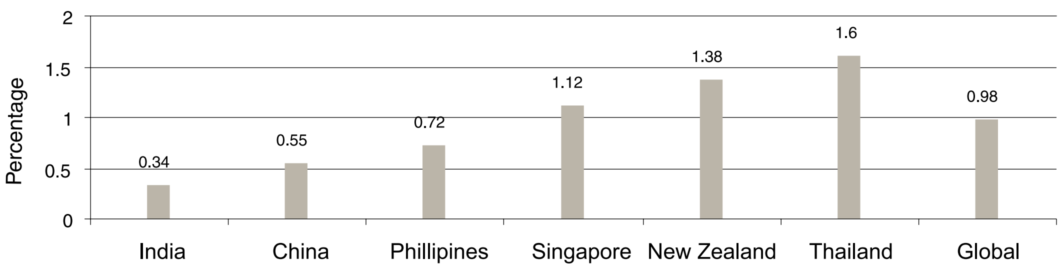
SEC	Print media		TV		Satellite TV		Radio		Films	
Urban India	Reach in million	Reach in %age	Reach in million	Reach in %age	Reach in million	Reach in %age	Reach in million	Reach in %age	Reach in million	Reach in %age
A1	7.57	95.2%	7.64	96.1%	6.68	84.0%	2.90	36.5%	2.43	30.6%
A2	13.90	90.5%	14.51	94.5%	11.90	77.5%	4.58	29.8%	3.85	25.1%
B1, B2	31.97	81.1%	35.71	90.6%	26.57	67.4%	9.73	24.7%	7.53	19.1%
C	33.78	69.5%	41.69	85.8%	28.86	59.4%	11.22	23.1%	8.79	18.1%
D	29.28	52.6%	43.15	77.5%	27.23	48.9%	11.41	20.5%	9.52	17.1%
E1,E2	20.99	30.1%	45.32	65.0%	26.35	37.8%	11.02	15.8%	10.95	15.7%

Source: IRS 2005, Round 2 as quoted in Jagran Prakashan Prospectus filed with SEBI dated February 3rd, 2006

B. Low ad spends

Indian advertising spends as a percentage of gross domestic product (GDP) – at 0.34 percent – is abysmally low, as opposed to other developed and developing countries. Advertising revenues are vital for the growth of this industry. While today the low ad spends may seem like a challenge before the E&M industry, it also throws open immense potential for growth. This potential can be estimated by the fact that even if India was to reach the global average, the advertising revenues would at least double the current advertising revenues, estimated at about INR 132 billion, for 2005.

Ad spend as a percentage of GDP



Source: Advertising Expenditure Forecasts October 2004 by Zenith Optimedia as quoted in Entertainment Network Limited Draft Red Herring Prospectus filed with SEBI on November 11, 2005

C. Liberalising foreign investment regime

Today, India has probably one of the most liberal investment regimes amongst the emerging economies with a conducive foreign direct investment (FDI) environment. The E&M industry has significantly benefited from this liberal regime and most segments of the E&M industry today allow foreign investment. Recently FDI was permitted in the two important sectors – print media and radio. Films, television and other segments are already open to foreign investment.

In the print media segment, 100 percent FDI is now allowed for non-news publications and 26 percent FDI is allowed for news publications. Printing of facsimile editions of foreign journals are now also allowed in India. This policy is helping foreign journals save on the cost of distribution while servicing the Indian market audiences more effectively.

The FM radio sector too was opened for foreign investment recently with 20 percent FDI being allowed. The FM radio sector itself has expanded by opening 338 licenses for private investment, which currently is underway. As a result, the radio sector is expanding rapidly with forecasted growth rates of 32 percent per annum.

Summary of guidelines for FDI in the Indian E&M industry is given below:

Advertising	FDI is permitted up to 100% through the automatic route
Films	FDI in all film-related activities such as film financing, production, distribution, exhibition, marketing etc. is permitted up to 100% for all companies under the automatic route
TV software production	100% FDI permitted subject to: • All future laws on broadcasting and no claim of privilege or protection by virtue of approval accorded • Not undertaking any broadcasting from Indian soil without government approval
Cable networks	FDI limit up to 49% inclusive of both FDI and portfolio investment. Companies with a minimum 51% paid up share capital held by Indian citizens are eligible for providing cable TV services under the Cable Television Network Rules, 1994
Direct-to-home	Maximum 49% foreign equity allowed including FDI/NRI/FII Within the foreign equity, FDI component should not exceed 20%
FM radio	Total foreign investment including FDI by OCB/NRI/PIO etc., portfolio investments by FIIs (within limits prescribed by RBI) and borrowings, if these carry conversion options, is permitted to the extent of not more than 20% of the paid up equity in the entity holding a permission for a radio channel subject to the following conditions: • One Indian individual or company owns more than 50% of the paid-up equity excluding the equity held by banks and other lending institutions • The majority shareholder exercises management control over the applicant company • Has only resident Indians as directors on the board· • All key executive officers of the applicant entity are resident Indians
Print	FDI up to 100% is permitted in publishing/printing scientific and technical magazines, periodicals and journals. In the news and current affairs category, such as newspapers,FDI has been allowed up to 26% subject to certain conditions including: • The largest shareholder must hold at least 51% equity· • Three-fourths of directors and all executive and editorial staff have to be resident Indians

Source: PwC - Destination India 2005

Key developments

Entry of new players

The year 2005 saw the entry of new players across all segments of the E&M industry. The most prominent entry was that of the Reliance Group in the filmed entertainment and radio segment. During 2005, Reliance Capital bought a majority stake in Adlabs which enabled it to have a presence across the entire value chain of the filmed entertainment segment ranging from film production, exhibition and distribution. Through Adlabs, Reliance also made its entry into the radio segment by bidding for over 50 FM radio stations across the country with aggregate bids of over INR 1.5 billion.

The other significant entry into the entertainment and media segment was that of the Tata group, through its subsidiary Videsh Sanchar Nigam Limited (VSNL). VSNL tied up with the Paris-based Thomson Group in 2005 with the objective of identifying opportunities in managing and delivering content for third parties, including broadcasters and content providers. Thomson Group also recently announced its partnership with Tata Sky Limited for manufacturing set-top-boxes and providing sales service and support network for their DTH customers.

Foreign investment

Owing to the strong impetus for growth from the economic and demographic factors coupled with some regulatory corrections, the sector also recently witnessed increasing foreign investment inflows in most segments of the E&M industry, especially the print media. Recent examples include foreign investment in English dailies such as *Hindustan Times* and *Business Standard* by Henderson Global and *Financial Times* respectively. Vernacular media too saw its share of foreign investment with a strategic equity investment by Independent News & Media in *Dainik Jagran*, a leading Hindi Daily.

In the broadcasting space, most channels beaming into India (such as Walt Disney, ESPN-Star Sports, Star, Discovery, BBC etc.) have established foreign investment subsidiary companies for content development and advertisement airtime sales.

In the television distribution space arena, foreign investment is being drawn by the larger cable operators referred to as 'multi-system operators (MSO)' such as Hathway and Hindujas. In the television content space, the recent investment in Nimbus Communications by a foreign private equity player is seen as the start of a significant trend of foreign investment inflows.

Select recent illustrations of strategic foreign investments in the Indian E&M industry

Foreign investor	Indian entity	Segment	Nature of investment	Reason
Virgin Radio Asia	HT Media	FM radio	Equity stake**	• Entry into the FM radio segment
Financial Times (Pearson Group)	Business Standard	Newspaper publishing-print media	Equity stake**	• Expansion and strengthening of operations
Independent News & Media, UK	Jagran Prakashan	Newspaper publishing-print media	Equity stake**	• Expansion and strengthening of operations
T Rowe Price International	Mid-day Multimedia	Newspaper publishing-print media	Equity stake**	• Expansion and strengthening of operations
AMP Hendersen, UK	HT Media	Newspaper publishing-print media	Equity stake**	• Expansion and strengthening of operations
Bear Stearns	Adlabs Films	Film production and exhibition	Equity stake	• Expansion of operations
3i (UK -based private equity FTSE 100 company)	Nimbus Communications	Television and films	Equity stake	• Expansion and strengthening of operations
Americorp Ventures, Mauritius	Nimbus Communications	Television and films	Equity stake	• Expansion and strengthening of operations
Americorp Ventures, Mauritius	Asianet Communications	Television broadcasting	Equity stake	• Expansion and strengthening of operations
Dubai-based NRI group	Yantra Media	Television content provider in south India	Equity stake	• Expansion and strengthening of operations in south India and entry into Hindi television content market
New Vernon Bharat, Mauritius-based	Jagran TV	Television production and broadcasting	Equity stake**	• Expansion and strengthening of operations
Reuters, UK	Times Global Broadcasting	Television production and broadcasting	Equity stake**	• Expansion and strengthening of operations

** Indicates cases where investment was a consequence of opening of FDI in that particular segment

Source: PricewaterhouseCoopers research

Current status of the industry and its growth potential

The Indian economy continues to perform strongly and one of the key sectors that benefits from this fast economic growth is the E&M industry. This is because the E&M industry is a cyclical industry that grows faster when the economy is expanding. It also grows faster than the nominal GDP during all phases of economic activity due to its income elasticity wherein when incomes rise, more resources get spent on leisure and entertainment and less on necessities. Further, consumption spending itself is increasing due to rising disposable incomes on account of sustained growth in income levels, and this also builds the case for a strong bullish growth in the sector.

INR milliion	2004	2005E	2006F	2007F	2008F	2009F	2010F	CAGR
Television	128,700	148,000 15%	170,000 15%	203,000 19%	250,000 23%	327,000 31%	427,000 31%	24%
Filmed entertainment	56,500	68,000 20%	79,000 16%	97,000 23%	113,000 16%	132,000 17%	153,000 16%	18%
Radio	2,400	3,000 25%	3,700 23%	5,500 49%	8,000 45%	10,000 25%	12,000 20%	32%
Music	6,700	7,000 4%	7,200 3%	7,200 0%	7,300 1%	7,400 1%	7,400 0%	1%
Live entertainment	7,000	8,000 14%	9,400 18%	11,000 17%	13,000 18%	16,000 23%	18,000 13%	18%
Entertainment industry*	**201,300**	**234,000 16%**	**269,300 15%**	**323,700 20%**	**391,300 21%**	**492,400 26%**	**617,400 25%**	**21%**
Print media	97,800	109,000 11%	121,000 11%	135,000 12%	153,000 13%	173,000 13%	195,000 13%	12%
Out-of-home	8,500	9,000 6%	10,500 17%	12,000 14%	13,500 13%	15,500 15%	17,500 13%	14%
Internet advertising	600	1,000 67%	1,500 50%	2,500 67%	3,800 52%	5,500 45%	7,500 36%	50%
Entertainment & media industry*	**308,200**	**353,000 15%**	**402,300 14%**	**473,200 18%**	**561,600 19%**	**686,400 22%**	**837,400 22%**	**19%**

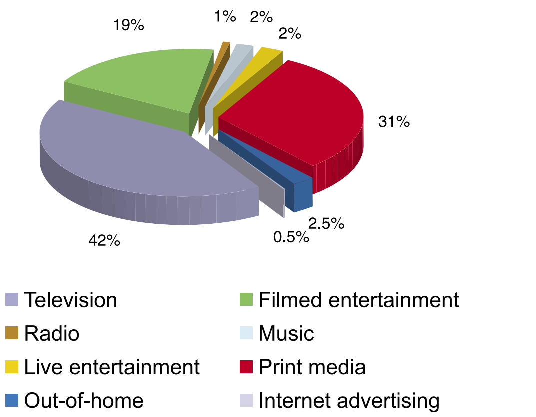
Sources: *Industry estimates & PwC analysis*

** Note: The figures taken above include only the legitimate revenues in each segment. Revenues from the Animation and Gaming segments have not been included in the industry size as these are traditionally included in the Indian IT and Software Revenues.*

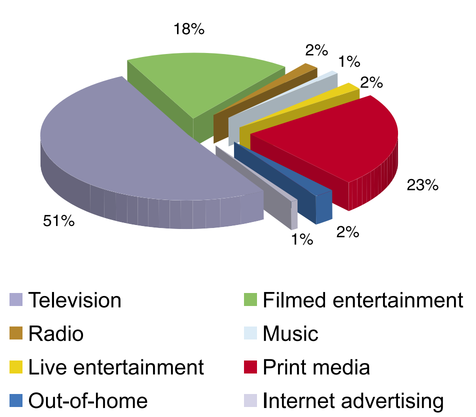
The size of E&M in India is currently estimated at INR 353 billion and is expected to grow at a compounded annual growth rate of 19 percent over the next five years.

The television industry continues to dominate the E&M industry by garnering a share of over 42 percent, which is expected to increase by a further 9 percent to reach about 51 percent. The share of the film industry, which currently stands at 19 percent, is not expected to change materially over the next five years. Print media, which stands at over 31 percent, is projected to lose some of its share in favour of the emerging segments.

Indian entertainment & media industry: 2005



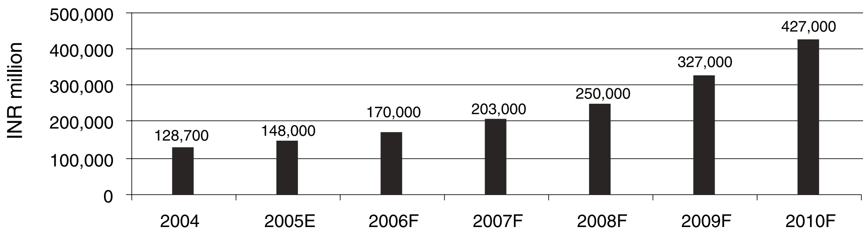
Indian entertainment & media industry: projected 2010



Source: Industry estimates and PwC analysis

Key growth drivers

Projected growth of Indian television industry

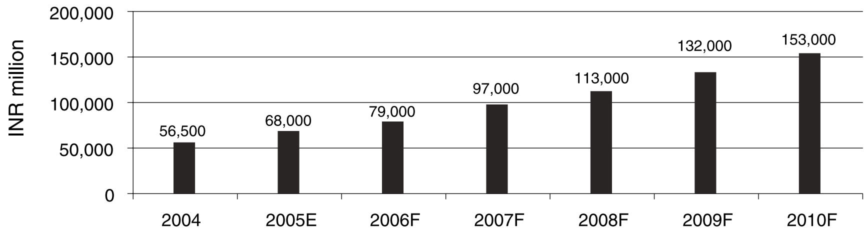


Source: Industry estimates and PwC analysis

Television

Subscription revenues are projected to be the key growth driver for the Indian television industry over the next five years. Subscription revenues will increase both from the number of pay TV homes as well as increased subscription rates. The buoyancy of the Indian economy will drive the homes, both in rural and urban (second TV set homes) areas to buy televisions and subscribe for the pay services. New distribution platforms like DTH and IPTV will only increase the subscriber base and push up the subscription revenues.

Projected growth of Indian filmed entertainment industry

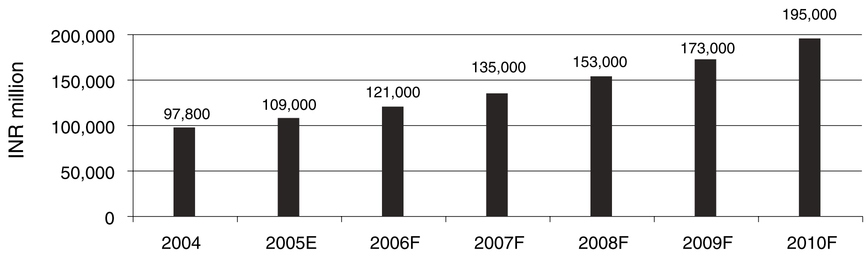


Source: Industry estimates and PwC analysis

Filmed entertainment

Indians love to watch movies. And advancements in technology are helping the Indian film industry in all the spheres – film production, film exhibition and marketing. The industry is increasingly getting more corporatised. Several film production, distribution and exhibition companies are coming out with public issues. More theatres across the country are getting upgraded to multiplexes and initiatives to set up more digital cinema halls in the country are already underway. This will not only improve the quality of prints and thereby make film viewing a more pleasurable experience, but also reduce piracy of prints.

Projected growth of Indian print media industry

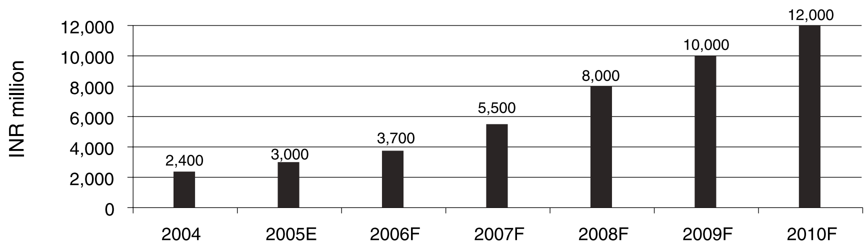


Source: Industry estimates and PwC analysis

Print media

A booming Indian economy, growing need for content and government initiatives that have opened up the sector to foreign investment are driving growth in the print media. With the literate population on the rise, more people in rural and urban areas are reading newspapers and magazines today. Also, there is more interest in India amongst the global investor community. This leads to demand for more Indian content from India. Foreign media too is evincing interest in investing in Indian publications. And the internet today offers a new avenue to generate more advertising revenues.

Projected growth of Indian radio industry



Source: Industry estimates and PwC analysis

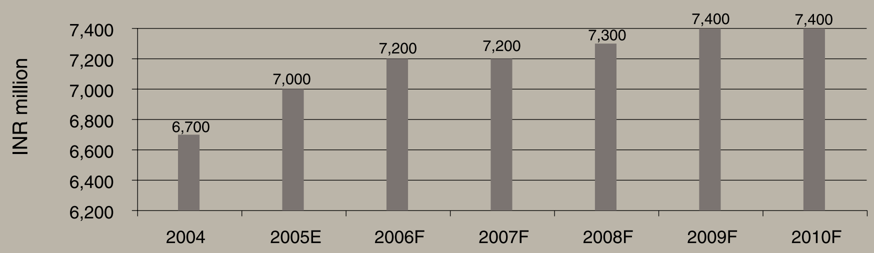
Radio

The cheapest and oldest form of entertainment in the country, which was hitherto dominated by the AIR, is going to witness a sea-change very shortly. In 2005, the government opened up the sector to foreign investment – and this is the key factor that will drive growth in this sector. As many as 338 licences are being given out by the Indian government for FM radio channels in 91 big and small towns and cities. This deluge of radio stations will result in rising need for content and professionals. New concepts like satellite, internet and community radio have also begun to hit the market. Increasingly, radio is making a comeback in the lifestyles of Indians.

Music

The industry has been plagued by piracy and had been showing very sluggish growth over the last few years, both in India and globally. However, 'mobile music' and 'licensed digital distribution' services are projected to fuel the recovery of the music industry the world-over. The pace of growth in mobile music reflects the fact that consumers increasingly view their wireless device as an entertainment medium, using those devices to play games and listen to music, while carriers are actively promoting ancillary services such as ringtones to boost average revenue per user. Ringtones currently constitute the dominant component of the mobile music market. Licensed digital distribution services are also contributing significantly to growth in all regions.

Projected growth of Indian music industry

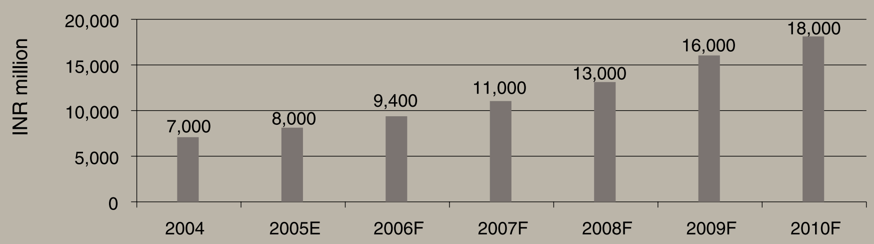


Source: Industry estimates and PwC analysis

Live entertainment

This segment of the entertainment industry, also known as event management, is growing at a fast and steady rate. While this industry is still evolving, Indian event managers have clearly demonstrated their capabilities in successfully managing several mega national and international events over the past few years. In fact, event managers are also developing properties around events. The growing number of corporate awards, television and sports events are helping this sector. With rising incomes, people are also spending more on wedding, parties and other personal functions. However, issues like high entertainment taxes in certain states, lack of world-class infrastructure and the unorganised nature of most event management companies, continue to somewhat check the potential growth in this segment of the industry.

Projected growth of Indian live entertainment industry

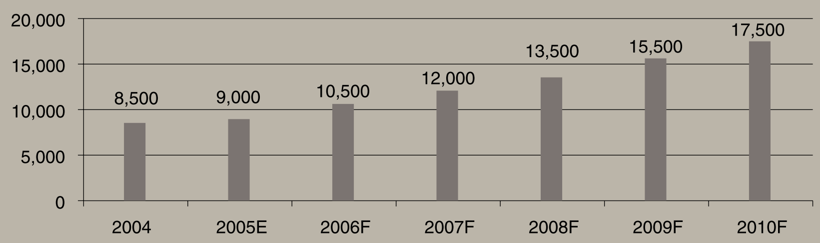


Source: Industry estimates and PwC analysis

Out-of-home advertising

Outdoor media sites in India are predominantly owned or operated by small, local players and are typically, directly marketed by them to advertisers and advertising agencies. However, this segment too is witnessing a sea-change with technological innovations. Growing billboard advertising is fuelled by technologies such as light-emitting diode (LED) video billboard. This is a segment that is seeing interesting technological innovations across the world and is likely to evolve in India too in the short-term.

Projected growth of Indian out-of-home advertising industry

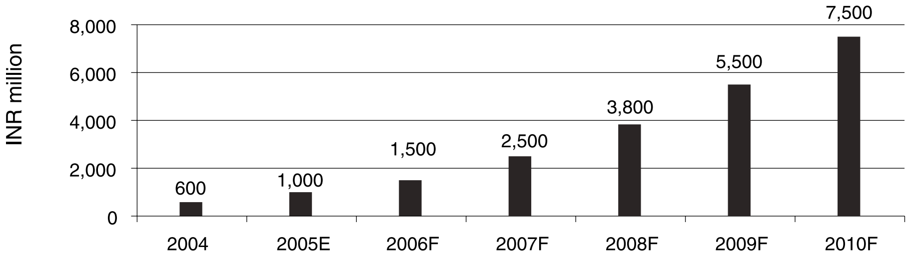


Source: Industry estimates and PwC analysis

Internet advertising

An estimated 28 million Indians are currently hooked on to the internet. And this rising number is leading to the growth of internet advertising, which today stands at approximately INR 1 billion. The internet is being used for a variety of reasons, besides work, such as chatting, leisure, doing transactions, writing blogs etc. This offers a huge opportunity to marketers to sell their products. And with broadband becoming increasingly popular, this segment is expected to grow by leaps and bounds.

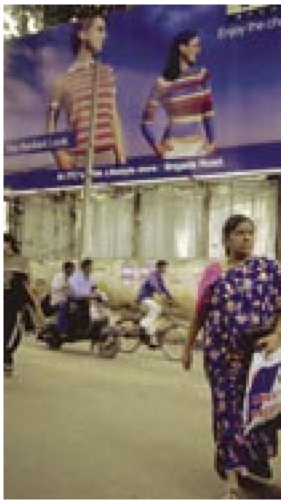
Projected growth of Indian internet advertising industry



Source: Industry estimates and PwC analysis

Barriers to investment in the entertainment and media industry

A lot more investment can be drawn into the entertainment and media industry if certain sectoral policy barriers can be addressed. Some of the issues that need to be addressed which commonly impacts all segments and need to be addressed urgently include:



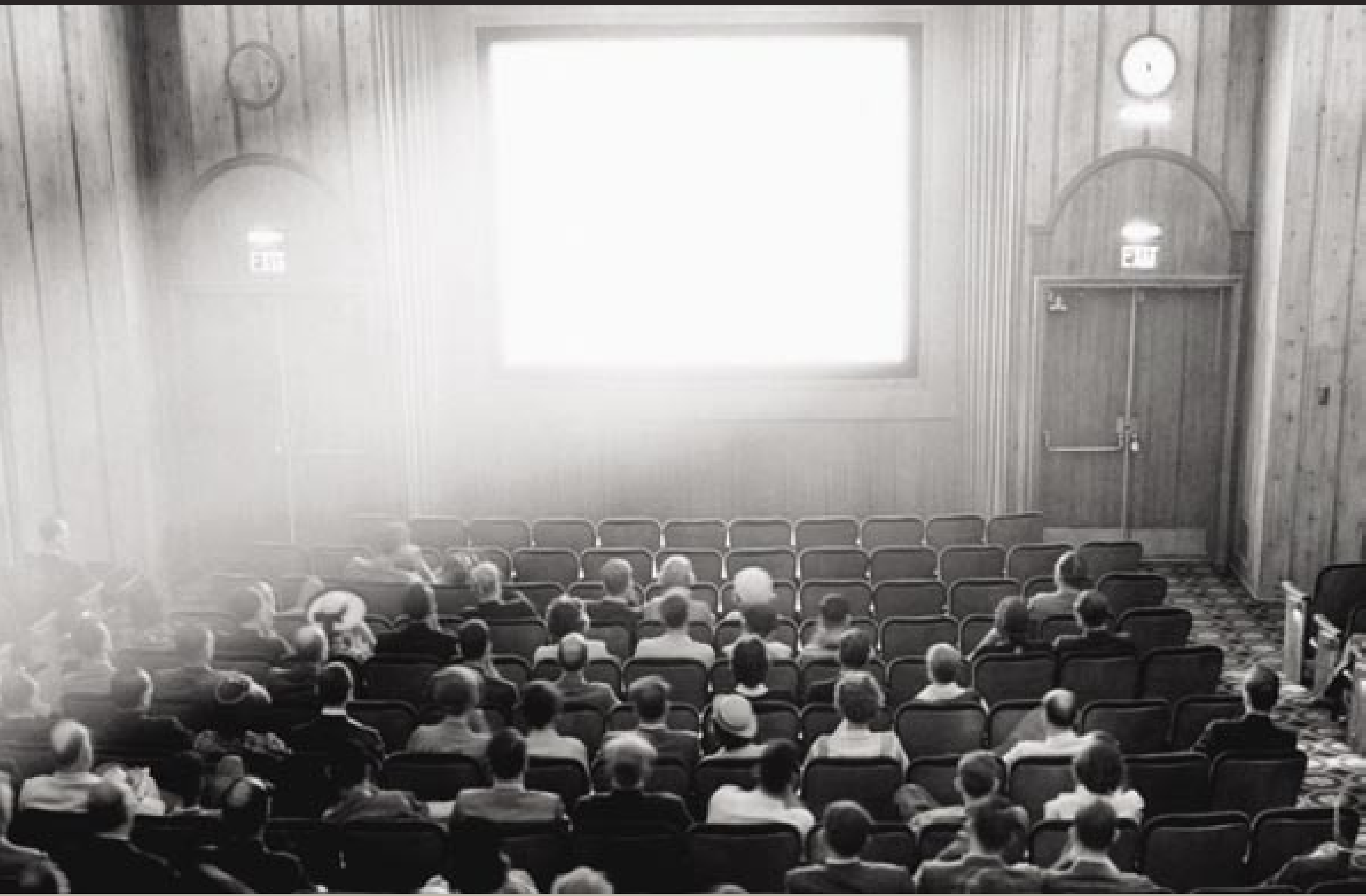
1. Piracy

The problem of piracy assumes a different proportion in a country such as India with an area of 3.3 million sq. km. and a population of over 1 billion speaking 22 different languages. It impacts all segments of the industry especially films, music and television. Most of the credible efforts today to combat piracy have been initiated by industry bodies themselves. On part of the government, lack of empowered officers for enforcement of anti-piracy laws remains the key issue that is encouraging the menace of piracy. This, coupled with the lengthy legal and arbitration process, is being viewed as a deterrent to the crusade against pirates. The current Copyrights Act too is dated in terms of technology improvements, and above all, it does not address the needs of the electronic media which has maximum instances of piracy today. The draft of the Optical Disc Law to address the need for regulating piracy at the manufacturing stage is still lying with the ministry for approval.

2. Lack of a uniform media policy for foreign investment

The sector currently lacks a consistent and uniform media policy for foreign investment. Some of the inconsistencies include different caps in foreign direct investment in various segments. This is enumerated below:

- Television distribution: DTH 49% (strategic FDI only 20%); cable 49% (ownership can only be with India citizens).
- Content (news): Television and print - 26%; radio - nil
- Content (non-news): Television and print - 100%; radio 20% (only portfolio)



3. Level playing field with incumbents

Most sectors of the Indian E&M industry have traditionally operated under various agencies of the Indian government, which were later opened to the private players in various stages. FM radio is one such example where the incumbent All India Radio (AIR) was the sole player in the medium of both AM and FM radio broadcasting. Limited frequencies of FM broadcasting have been opened to the private players but with a licence fee, which is not currently applicable to the incumbent AIR. Similarly, in television segment, all terrestrial broadcasting rights continue to be with the incumbent Doordarshan.

4. Content regulation

A long-standing debate continues amongst the industry members on regulation of content. Some of the issues that need to be addressed in this sphere include:

- Should there be a content regulator or should the industry be allowed self-regulation under a broad framework?
- If there needs to be one, should the content regulator be independent of the carriage regulator?
- Should the content regulations be consistent across all delivery mediums such as films, television, radio and print or different sets of regulation should be evolved for each medium?
- What should be the working mechanisms of a content regulation in terms of enforcement, penalties for default from prescribed guidelines etc.?

5. Price regulation in the television industry

As per a notification issued by the TRAI, broadcast media pricing has been frozen for over a year now. Though TRAI did allow a 7 percent inflationary adjustment late in 2004, the inflationary adjustment of 4 percent in 2005 is under a legal dispute. Such price controls limit a broadcaster's ability to shape their business model, based on market demand and the competitive environment. Since the market has so far been efficiently regulated through competition, price regulation thus becomes a deterrent.

6. Cross-media ownership rules

Media integration is an important tool in the hands of the media industry which by its very nature could lead to anti-competitive behaviour hurting the entire value chain of the industry. The government has been mulling over evolving cross-media ownership rules for which even a public draft has not been evolved as yet. Most E&M sectoral policy documents have an in-built compliance clause, which states that companies have to abide by the cross-media rules. However, in the absence of any draft rules or an established time-frame for evolution of such rules, potential foreign investors can't evolve their long-term investment strategy for India.

7. Lack of empowered regulators

At present, the government has appointed an independent regulator – TRAI – for only television and radio. Here too, the role of the regulator has been restricted to providing recommendations on segment issues to the government, as a result the government has still not acted upon several recommendations by the regulator. Some of the key recommendations include 'issues relating to broadcasting and distribution of TV channels' of which 'addressability in distribution' forms a significant part impacting the largest segment of television. Other pending recommendations include 'digitalisation of cable TV', 'privatisation of terrestrial broadcasting', 'licensing of satellite radio' etc.

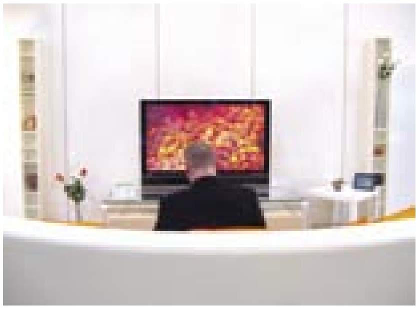
8. Merging of the FII and FDI caps

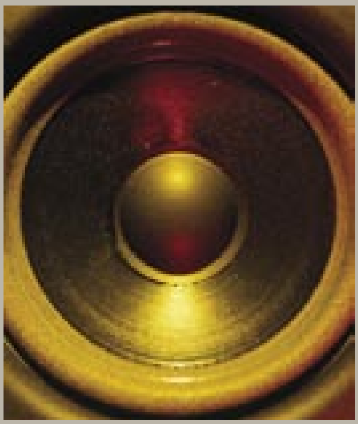
Some industry members are of the view that converting the current cap on foreign institutional investment (FII) investment to foreign direct investment (FDI) is not a very encouraging move by the government. FII is primarily considered "hot money" and is invested by foreign funds to make quick returns unlike FDI, which is longer term in nature and is actually invested into the business. FDI in several cases is also accompanied with expertise (such as technology) being brought into the country that helps in the growth and development of the industry. An FII invests like a financial investor with the prime motive of quick appreciation of its invested capital rather than taking a longer-term view of the business, whereas an FDI investor is more in the nature of a strategic investor and is in the business for the long haul. The new policy does not recognise the need for creating an environment that encourages strategic investors in making investments in the sector.

9. Tax treatment of foreign broadcasting companies

The tax treatment of foreign companies in the broadcasting sector in India is emerging as the single most important policy issue deterring foreign investment in the country.

A major issue pertains to taxation of satellite segment usage fee paid by broadcasters to foreign satellite companies. Tax assessing officers have attempted to treat such a payment as royalty income and tax the same on source rule basis. Such satellite companies do not have any office or presence in India.





Another issue relates to foreign telecasting companies. These foreign telecasting companies do not have any office, business presence or operations in India. Tax assessing officers have been arguing that foreign telecasting companies must have a permanent establishment (PE) in India on account of their agents selling air-time space to India advertisers.

While various bilateral conventions for the avoidance of double taxation do offer a process for re-mediation of double-taxation issues, cases in past have dragged on for five years or more. The dramatic growth in the number of foreign broadcasting companies involved in double-taxation dispute cases in India is becoming well-known, and unless it is dealt with soon, it could become a major impediment to the Indian government's attempt to attract new investors.

Future outlook

With rapid advancements in technology, we believe that convergence will play a very crucial role in the development of the Indian entertainment and media industry where consumers will increasingly be calling the shots in a converged media world. Broadband access and Internet Protocol (IP) will be the technology enablers that will evolve this new breed of consumers.

In the converged world of tomorrow, content and access will no longer be in short supply. Opportunities for consumers to access and manipulate content and services will not only be abundant, but overflowing. However, consumer time and attention will be limited. Thus, established approaches of pushing exclusive content through non-linear-channels or networks to mass or segmented audiences will no longer guarantee competitive advantage.

Thus, following are the challenges and opportunities that convergence will bring to the industry:

- Consumer needs are expanding beyond the mass media and segmented media to 'Lifestyle Media', a new approach that will help consumers maximise their limited time and attention to create a rich, personalised and social media environment. This approach presents many opportunities for the industry to create new avenues to generate revenue.

- Knowledge of 'consumer activity' rather than exclusive ownership of content or distribution assets will become the basis for competition. Businesses that capture 'consumer activity' data and use it to inform business and advertising models will be positioned to succeed.

- Media marketplace will provide a structure to capitalise on the Lifestyle Media opportunity. Pull-oriented media consumption models, such as a media marketplace, in which the consumer is furnished with robust search, research, customisation, configuration and scheduling tools will capture the opportunity associated with Lifestyle Media better than minor modifications to existing business practices. Participants in media market place must collaborate on this transformation.

- Early movers in establishing media marketplaces will have a significant advantage over late entrants because of network effects, whereby the value of the market place increases as the number of participants increase.

- Media market places will be economically viable only if operational efficiencies can be realised through consumer activity measurement capabilities and supporting systems.

- Significant advancements in audience measurement technology will be needed to capture, analyse and standardise consumer activity data across platforms.

- Though convergence will bring uncertainty, the ability to gather rich data on consumer activity will also lower the risks and costs associated with testing new revenue or advertising models.
- Both content providers and advertisers will need to be more accountable for their performance because it will now be measurable.
- While technology will make it easier to collect detailed consumer information, privacy concerns will rise amongst consumers, regulators and privacy advocates.

Convergence will thus require increased collaboration between value chain partners to drive new products and services to consumers. For content owners, conducting researches to understand the needs of the Lifestyle Media consumers will become crucial. They will need to develop strategies for owning social networks and capturing consumer activity information and will need to develop convergence-native content rather than concentrate solely on re-packaging existing content for multiple platforms. They will need to understand the complexities of content security and controls and incorporate them into the system and processes. In addition to the above, advertising agencies will need to invest in advertising ROI technology and processes that will lead to the creation of new viewing experiences that provide advertising opportunities beyond the traditional 30-second spot.

Defining convergence

The term convergence describes two trends: the ability of different network platforms (broadcast, satellite, cable, telecommunications) to carry similar kinds of services; and the merging of consumer devices such as telephones, televisions or PCs. From a technology perspective, the twin forces accelerating convergence are increased broadband penetration and increased standardisation of networks and devices to use the Internet Protocol (IP).Convergence collapses previously distinct media distribution channels (for example, broadcast/cable television, radio, print, online) into a single delivery chain. A converged infrastructure supports a range of interaction modes between users and content. Moreover, the open transport and interface protocols of IP mean that access to content has become largely network and device independent. Fundamentally, convergence affects the two-step process at the heart of any media-based industry – content creation and transport. The first step entails selecting, packaging and encoding content into a medium.
The second step transports content to its destination and then decodes it for use. In most instances, it is the second step that defines a particular media market, which influences the form taken by the content in the first step.

The Indian entertainment and media industry today has everything going for it - be it regulations that allow foreign investment, the impetus from the economy, the digital lifestyle and spending habits of the consumers and the opportunities thrown open by the advancements in technology. All it has to do is to cash in on the growth potential and the opportunities. The government, on its part, needs to play a more active role in sorting out policy-related impediments to growth. The industry needs to fight all roadblocks- such as piracy- in a concerted manner, while churning out high-quality, world class end products. The entertainment and media industry has all that it takes to be a star performer of the Indian economy.

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Uday Singh, *Managing Director, Sony Pictures Releasing of India Ltd.*
Nitin Sood, *General Manager, Corporate Finance & Investor Relations, PVR Limited*
Jwalant Swaroop, *Director- Advertising, Lokmat Newspapers Advertising Ltd.*
I. Venkat, *Director, Eenadu TV*

Siddhartha Dasgupta
FICCI Federation House
Tansen Marg
New Delhi 110 001
India

Tel: [91] (11) 2331 6527
Fax: [91] (11) 2332 0714
E-mail: frames@ficci.com

About FICCI

Federation of Indian Chambers of Commerce and Industry (FICCI) was set up in 1927 to further the interests of the Indian business community. Today, with a membership of over 500 Chambers of Commerce, Trade Associations and Industry bodies, FICCI is a spokesperson for over 250,000 business units - small, medium and large - employing around 20 million people. FICCI also has direct memberships of about 2,000 companies from private, public and multinational sectors.

FICCI's expert committees and task forces, headed by leading industrialists, regularly meet to discuss the current issues like entertainment, agriculture, banking and finance, consumer durables, ecology and environment, education, energy, foreign trade, industry, information technology, internal trade, taxation and corporate laws. These interactions facilitate flow of investment to the country, help promote international trade and provide inputs for evolving and shaping government policies in different areas to make them conducive to rapid growth of the economy.

The FICCI Entertainment Committee has made significant progress in giving a shape and vision to the Entertainment Industry of India. It has been able to bring in its fold all segments of the industry and project a united face of the industry. The committee has successfully lobbied for several concessions for the Entertainment sector since its inception and has become the most important voice of the entire entertainment industry.

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Deepak Kapoor
PricewaterhouseCoopers Pvt. Ltd.
PwC Centre, Saidulajab
Opposite D- Block Saket
Mehrauli Badarpur Road
New Delhi 110 030

Telephone: [91] (11) 41 350 501
Fax: [91] (11) 41 250 250
E-mail: deepak.kapoor@in.pwc.com

Smita Jha
PricewaterhouseCoopers Pvt. Ltd.
PwC Centre, Saidulajab
Opposite D- Block Saket
Mehrauli Badarpur Road
New Delhi 110 030

Telephone: [91] (11) 41 250 879
Fax: [91] (11) 41 250 250
E-mail: smita.jha@in.pwc.com

Offices in India

Bangalore
PricewaterhouseCoopers Pvt. Ltd.
14th Floor "C" Wing,
Mittal Tower,
47/6 MG Road,
Bangalore 560001
Telephone: [91] (80) 2559 1941, 25593429
Fax: [91] (80) 2559 3792

Bhubaneshwar
PricewaterhouseCoopers Pvt. Ltd.
IDCOL House,
Sardar Patel Bhawan Block III,
Ground Floor, Unit 2,
Bhubaneswar 751009
Telephone: [91] (674) 2532 459, 2530 370
Fax: [91] (674) 2531 674

Chennai
PricewaterhouseCoopers Pvt. Ltd.
PwC Centre,
32, Khader Nawaz Khan Road,
Nungambakkam,
Chennai 600 006
Telephone: [91] (44) 5228 5000
Fax: [91] (44) 5228 5100

Hyderabad
PricewaterhouseCoopers Pvt. Ltd.
6-3-550, IIIrd Floor, L. B. Bhavan,
Somajiguda,
Hyderabad 500 082
Telephone: [91] (40) 5551 1011- 13, 2330 1364/65
Fax: [91] (40) 2332 6117

Kolkata
PricewaterhouseCoopers Pvt. Ltd.
Plot No Y 14, Block EP Sec- V,
Salt Lake Electronic Complex,
Kolkata 700 091
Telephone: [91] (33) 2357 7200/ 9100
Fax: [91] (33) 2357- 3394/95

Mumbai
PricewaterhouseCoopers Pvt. Ltd.
252 Veer Savarkar Marg,
Shivaji Park, Dadar,
Mumbai 400 028
Telephone: [91] (022) 5669 1500
Fax: [91] (022) 5654 7804/05

New Delhi
PricewaterhouseCoopers Pvt. Ltd.
PwC Centre, Saidulajab,
Opposite D- Block Saket,
Mehrauli Badarpur Road,
New Delhi 110 030
Telephone: [91] (11) 4125 0000
Fax: [91] (11) 4125 0250

Pune
PricewaterhouseCoopers Pvt. Ltd.
305-307, Century Arcade,
243-244, B/2 Narangi Baug Road,
Off Bund Garden Road,
Pune 411 001
Telephone: [91] (20) 2612 3787/ 2612 3271
Fax: [91] (20) 2612 1131

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