

# REPORT ON BROADBASING THE OWNERSHIP OF ASSOCIATED NEWSPAPERS OF CEYLON LTD.

## Objectives of the New Proposals

The committee, while conscious of the fact that the status quo cannot continue, has tried to evolve a scheme which will not only ensure that Lake House ceases to be controlled by the State, but also seeks to avoid the creation of another monopoly controlled by a family, clique or small elite. The proposals provide for.

- (a) the maximum amount of broadbasing of ownership as is feasible;
- (b) public participation in ownership and management;
- (c) worker participation at all levels;
- (d) mechanisms to safeguard a public interest component in the newspaper company;
- (e) freedom from state control;
- (f) professional and journalistic excellence.

The committee is convinced that if the proposals outlined below are implemented, the Lake House Group of newspapers will be unique in its structure, independent of the State, and be able to perform a vital role in safeguarding democracy and pluralism in Sri Lanka. The proposals, if implemented, will create a broadbased, democratic newspaper company with the widest possible citizens' participation. It will then be a national asset in the next century and an institution which will fulfil the vision of the democratic constituencies that have been in the forefront of the struggle for a truly free media.

### The Proposed Scheme for Broadbasing the Ownership of ANCL Ltd.

The Associated Newspapers of Ceylon Ltd. (Special Provisions) Law shall be repealed and instead a new law shall be introduced which shall incorporate the following modalities and features:

- i. All assets of the ANCL should be evaluated, before the broadbasing of the ownership, by the government valuer and by an independent investment banking organization.

In the event of a major discrepancy in the assets valuation, a Committee comprising representatives of the above two institutions and a representative of the Minister of Media shall reach a consensus on the valuation of the shares and assets of the ANCL.

ii. Twenty percent of the shares shall be reserved for the employees of the ANCL Ltd, as non-transferable shares. The shares shall be allocated free of charge to those who have been in employment for five years or more. The shares shall be allocated on the basis of seniority and the period of service shall be recognised in the allocation of the number of shares. Employees who cease to be employees of ANCL Ltd. shall return the shares to the company and receive as compensation the market value of such shares.

iii. Fifteen percent of the shares including the shares presently held by public corporations, shall be vested in a Trust. The Trustees shall be appointed in the following manner:

- (a) A nominee of the Vice Chancellors of the National Universities,
- (b) A nominee of the Organization of Professional Associations;
- (c) A nominee of organizations representing media personnel,
- (d) A nominee of the Constitutional Council,
- (e) The Public Trustee.

iv. The shares presently owned by individuals shall remain intact.

v. The remaining shares shall be sold in the stock exchange through a public share issue. The share issue shall be subjected to the following conditions:

- (a) No individual or company shall buy or hold more than 25000 shares.
- (b) Shares shall only be held by Sri Lankan citizens, or companies with a majority Sri Lankan share holding.
- (c) In the allocation of shares, a "bottom up" approach should be adopted to ensure greater participation.
- (d) The price of a share shall, as far as possible, be determined in order to ensure maximum people's participation in its purchase.

### Directorate of the Company

The Directorate of the Company shall comprise eleven members who shall be selected in the following manner;

- (a) Six members elected by the shareholders;
- (b) One member nominated by the Editors and other journalists employed by the company;
- (c) One member nominated by the other employees of the company;
- (d) One member nominated by the Trust;
- (e) One member nominated by the Minister in charge of the subject of Media;
- (f) One member nominated by the Leader of the Opposition.

The Chairperson of the Board of Directors shall be elected by the Directors as shall be specified in the Articles of Association of the company.

### Editorial Independence

The composition of the Board of Directors will necessarily ensure editorial independence. Furthermore, the Director appointed exclusively by the journalists of the company will, in particular, not merely represent, but protect, their interests.

### Media Freedom and Professional Excellence

The Terms of Reference of the Committee are emphatic about the objective of the broad-basing of the ANCL and (i) "transferring the... ANCL into a free and independent media institution of professional and journalistic excellence", and (ii) "Strengthening media freedom and media democracy".

The Committee is of the view that divesting state ownership and control of the ANCL will be a definite step towards achieving the above objectives. However, this needs to be supplemented by the consolidation of an overall democratic political culture in our country, where the Government, the public, media professionals and media institutions recognize and sustain the noble ideals of media freedom and democracy. The Committee sincerely hopes that the broad-basing of the ownership of the ANCL is accompanied by a relentlessly strong democratic culture where media freedom is constantly guarded by a vigilant public and made truly meaningful through media independence, professionalism and professional excellence.

The members of the committee were Mr. Sidat Sri Nandalochana - Chairman, Dr. Jayadeva Uyangoda Mr. Rohan Edrisinha and Mr. R.M. Gunasekera

## REPORT OF THE COMMITTEE TO ADVISE ON THE REFORMS OF LAWS EFFECTING MEDIA FREEDOM AND FREEDOM OF EXPRESSION

### SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

#### CONSTITUTIONAL GUARANTEES OF FREEDOM OF EXPRESSION

16.1 The guarantees of freedom of expression in the Constitution must be brought into conformity with Sri Lanka's international legal obligations set in the International Covenant on Civil and Political Rights (ICCPR).

#### Freedom of expression

16.2 The right to freedom of expression in the constitution should be re-phrased to reflect the wording of the ICCPR which states, in article 19.1, that "Everyone shall have the right to hold opinions without interference".

#### Freedom of information

16.3 The Constitution should explicitly include freedom of information, as in the May 1995 draft, but the draft should be amended

to set it out in more detail as in the ICCPR, which states, in article 19.2, that the right to freedom of expression "shall include freedom to seek, receive and impart information and ideas of all kind regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice". Accordingly, the formulation in the 22 November 1994 draft of the Minister of Justice and Constitutional Affairs, which spelt out this right in detail and also provided safeguards against indirect restrictions such as abuse of control over newsprint etc should be restored and incorporated into the Constitution.

#### Constitutional restrictions on fundamental rights

16.4 The restrictions on fundamental rights in the Constitution should be reformulated to comply with restrictions permissible under the International Covenant on Civil and Political Rights. The provisions in the Constitution and the Ministry draft, setting out restrictions relating to parliamentary privilege should be removed.