



Nishith Desai Associates  
LEGAL AND TAX COUNSELING WORLDWIDE

MUMBAI

SILICON VALLEY

BANGALORE

SINGAPORE

NEW DELHI

MUNICH / AMSTERDAM

NEW YORK

GIFT CITY

Research

# M&A Lab

---

**Breaking News:**

**Adani's Hostile Takeover  
of NDTV**

May 2023

Research

# M&A Lab

---

**Breaking News:**

**Adani's Hostile Takeover  
of NDTV**

May 2023



Ranked as 2nd in the 'Most Innovative Asia Pacific Law Firm' category in the prestigious FT Innovative Lawyers Asia Pacific Awards in 2019. Scored the highest, as per tally, for Legal Expertise across Asia Pacific.

Also won the prestigious Innovation in the Rule of Law and Access to Justice award together with Blueprint for Free Speech. Previously won the award for 'Most Innovative Indian Law Firm' in 2014, 2015, 2016 and 2017 in these elite Financial Times Innovation rankings.



## Disclaimer

This report is a copyright of Nishith Desai Associates. No reader should act on the basis of any statement contained herein without seeking professional advice. The authors and the firm expressly disclaim all and any liability to any person who has read this report, or otherwise, in respect of anything, and of consequences of anything done, or omitted to be done by any such person in reliance upon the contents of this report.

## Contact

For any help or assistance please email us on [concierge@nishithdesai.com](mailto:concierge@nishithdesai.com) or visit us at [www.nishithdesai.com](http://www.nishithdesai.com).

## Acknowledgements

### **Nishchal Joshipura**

nishchal.joshi@nishithdesai.com

### **Khyati Dalal**

khyati.dalal@nishithdesai.com

### **Aishwarya Rao**

aishwarya.rao@nishithdesai.com

### **Akash Kumar**

akash.kumar@nishithdesai.com

### **Aarathi Das**

aarathi.das@nishithdesai.com

### **Sach Chabria**

sach.chabria@nishithdesai.com

# Contents

<b>Prologue</b>	<b>1</b>
<b>Glossary of Terms</b>	<b>2</b>
<b>Executive Summary</b>	<b>4</b>
<b>Deal Structure</b>	<b>6</b>
<b>Deal Details</b>	<b>8</b>
<b>Parties Involved in the Deal</b>	<b>10</b>
<b>Deal Timeline</b>	<b>12</b>
I. Part A	12
II. Part B	12
<b>Commercial and Financial Considerations</b>	<b>14</b>
I. What is a Hostile Takeover?	14
II. How will this Deal Benefit the Adani Group?	15
III. How did NDTV Contest the Deal?	16
IV. How did Adani Fund the Acquisition?	17
<b>Legal and Regulatory Considerations</b>	<b>18</b>
I. How was the Takeover Structured by the Adani Group?	18
II. What is an Open Offer? What Triggered the Open Offer in the Present Transaction?	19
III. How was the Offer Price Determined and Justified?	22
IV. What are Share Warrants?	24
V. When were the Share Warrants Issued to VCPL and whether Consent from the Founders was Required for Conversion of such Warrants into Equity Shares of RRPR?	25
VI. What were the Restrictions under the SEBI Order Passed against the Founders of NDTV with Respect to Dealing in the Securities Market till November 2022?	26
<b>Tax Considerations</b>	<b>28</b>
I. What were the Tax Implications in the Hands of VCPL on Conversion of the RRPR Warrants?	28
II. Was a Consent from the Tax Authorities Required for the Conversion of the RRPR Warrants?	29
III. What were the Tax Implications for the Public Shareholders of NDTV who had Tendered Shares Pursuant to the Open Offer?	30
<b>Epilogue</b>	<b>33</b>

# Prologue

The Adani Group (*defined below*) has cemented its position in several sectors, ranging from airports, renewable energy, mining and data centers — to name a few. Recently, Adani broadened its horizon to the media and entertainment sector and chose the news institution New Delhi Television Limited (“**NDTV**”) to achieve its vision, thus facilitating an acquisition which everyone followed with bated breath.

It comes with no doubt that NDTV has an extensive digital and offline customer reach. Accordingly, the mammoth customer base of NDTV clubbed with the gargantuan resources at the disposal of the Adani Group is set to ensure that the Deal (*defined below*) has the potential to revolutionize the media & entertainment industry.

A mysterious lender, a loan with no interest, a change of control, a hostile takeover, SEBI orders, an open offer below market price, a surprising sale of shares — all eyes have tracked this dramatic saga as it unfolded.

In this M&A Lab, we delve into these details and probe deeper into this unprecedented and riveting deal that is bound to change the landscape of the Indian media and entertainment industry. We will analyse the legal, regulatory, tax and other commercial dimensions of this intricate Deal.

# Glossary of Terms

Abbreviation	Meaning / Full Form
<b>Adani Group</b>	shall collectively mean VCPL, AMG and AEL
<b>AEL</b>	Adani Enterprises Limited
<b>AMG</b>	AMG Media Networks Limited
<b>BSE</b>	BSE Limited
<b>CBDT</b>	Central Board of Direct Taxes
<b>Conversion Transaction</b>	Indirect acquisition of 29.18% (Twenty Nine point One Eight percent) of the voting capital of NDTV pursuant to exercise of convertible warrants held by VCPL in RRPR
<b>Conversion Transaction Consideration</b>	INR 19,900,000 (INR Nineteen Million Nine Hundred Thousand only) <sup>1</sup> (approximately USD 240,000)
<b>Deal</b>	shall collectively mean the: (i) Conversion Transaction; (ii) Open Offer; and (iii) Founder Purchase Transaction
<b>DLOF</b>	Draft Letter of Offer dated September 7, 2022 submitted by the Adani Group to SEBI
<b>Founders</b>	Radhika Roy and Prannoy Roy
<b>Founder Purchase Transaction</b>	Purchase by RRPR of 17,577,676 (Seventeen Million Five Hundred and Seventy Seven Thousand Six Hundred and Seventy Six) equity shares of NDTV, amounting to 27.26% (Twenty Seven point Two Six percent) of the share capital of NDTV held by the Founders on December 30, 2022 <sup>2</sup>
<b>Founder Purchase Transaction Price</b>	INR 342.65 (INR Three Hundred Forty Two point Sixty Five Paise only) per equity share
<b>ICDR Regulations</b>	SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018
<b>Initial Open Offer Price</b>	INR 294 (INR Two Hundred and Ninety Four only) per equity share of NDTV
<b>INR</b>	Indian Rupees
<b>IT Act</b>	Income-tax Act, 1961

1 Paragraph 3.1.4 (b) at Page 15 of LOF available at: <https://www.bseindia.com/xml-data/corpfilings/AttachLive/052309B7-5C8F-4333-9270-6AC53C1E07E5-200645.pdf>.

2 Public Notice dated January 2, 2023 filed with BSE on January 3, 2023 available at: <https://www.bseindia.com/xml-data/corpfilings/AttachHis/ddbf4445-f782-4dc0-a82c-a04af73c9285.pdf>.

## 2. Glossary of Terms

Abbreviation	Meaning / Full Form
<b>Loan Agreements</b>	Loan agreements dated July 21, 2009 and January 25, 2010 with VCPL for INR 4,038,500,000 (INR Four Billion Thirty Eight Million Five Hundred Thousand only) <sup>3</sup> (approximately USD 48,000,000) on an interest-free basis for a period of 10 (Ten) years
<b>LOF</b>	Letter of Offer dated November 11, 2022 submitted by the Adani Group to SEBI
<b>NDTV/Target Company</b>	New Delhi Television Limited
<b>New Open Offer Price</b>	INR 342.65 (INR Three Hundred Forty Two point Sixty Five Paise only) per equity share of NDTV
<b>NSE</b>	National Stock Exchange of India Limited
<b>Open Offer</b>	16,762,530 (Sixteen Million Seven Hundred Sixty Two Thousand Five Hundred and Thirty) fully paid-up equity shares at a price of INR 294 (INR Two Hundred and Ninety Four only) per equity share (later modified to INR 342.65 (INR Three Hundred Forty Two point Sixty Five Paise only) due to be paid out on February 28, 2023), representing 26% (Twenty Six percent) of the expanded voting share capital of NDTV
<b>PAC</b>	Persons acting in concert as per the SAST Regulations
<b>PIT Regulations, 1992</b>	SEBI (Prohibition of Insider Trading) Regulations, 1992
<b>PIT Regulations, 2015</b>	SEBI (Prohibition of Insider Trading) Regulations, 2015
<b>RRPR</b>	RRPR Holdings Private Limited
<b>RRPR Warrants</b>	100,000,000 (One Hundred Million) share warrants issued by RRPR to VCPL in lieu of the Loan Agreements
<b>SAST Regulations</b>	SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011
<b>SEBI</b>	Securities and Exchange Board of India
<b>USD</b>	United States Dollars
<b>VCPL</b>	Vishvapradhan Commercial Private Limited
<b>VCPL Acquisition</b>	Acquisition by AMG of 100% (One Hundred Percent) equity shares in VCPL
<b>VCPL Acquisition Price</b>	INR 1,137,461,990 <sup>4</sup> (INR One Billion One Hundred Thirty Seven Million Four Hundred Sixty One Thousand Nine Hundred and Ninety only) (approximately USD 14,000,000)

3 Para 3.1.4 (j)(i), at Page 21, LOF available at: <https://www.bseindia.com/xml-data/corpfiling/AttachLive/052309B7-5C8F-4333-9270-6AC53C1E07E5-200645.pdf>; Palak Shah, 2009 pact with VCPL leaves Roys no room to prevent Adani’s bid to takeover NDTV, The Hindu Business Line, August 25, 2022, available at: <https://www.thehindubusinessline.com/companies/roys-vcpl-2009-pact-leaves-no-room-for-preventing-adanis-takeover-bid/article65809979.ece>; Adani Group to launch open offer for NDTV on Oct 17, Business Today, August 31, 2022, available at: <https://www.businesstoday.in/latest/corporate/story/adani-group-to-launch-open-offer-for-ndtv-on-oct-17-rrpr-vcpl-prannoy-roy-sebi-346011-2022-08-31>.

4 [https://www.business-standard.com/article/news-cm/adani-enterprises-acquires-100-stake-in-vcpl-122082301011\\_1.html](https://www.business-standard.com/article/news-cm/adani-enterprises-acquires-100-stake-in-vcpl-122082301011_1.html).



## Executive Summary

The Adani Group has been gradually expanding its media business and it set its sights upon the acquisition of NDTV. The Adani Group through AMG, a wholly owned subsidiary of AEL, acquired 100% (One Hundred percent) equity stake in VCPL in accordance with a purchase agreement dated August 23, 2022 for a consideration of INR 1,137,461,990<sup>1</sup> (INR One Billion One Thirty Seven Four Hundred Sixty One Nine Hundred and Ninety only) (approximately USD 14,000,000). VCPL in turn held share warrants issued by RRPR pursuant to a loan granted by VCPL to RRPR amounting to INR 4,038,500,000 (INR Four Billion Thirty Eight Million Five Hundred Thousand only) (approximately USD 48,000,000),<sup>2</sup> during the years 2009-2010.

Though the loan amount was non-interest bearing, the terms of the RRPR Warrants stated that VCPL, at its discretion, could exercise any or all of the RRPR Warrants issued to it and upon the exercise of all the RRPR Warrants the equity shares issued to VCPL would amount to 99.99% (Ninety Nine point Nine Nine percent) of the equity share capital of RRPR upon payment of par value for such equity shares.<sup>3</sup>

As of November 28, 2022, RRPR held 18,813,928 (Eighteen Million Eight Hundred and Thirteen Thousand Nine Hundred and Twenty Eight) equity shares representing 29.18% (Twenty Nine point One Eight percent) of the voting share capital of NDTV.<sup>4</sup> Upon acquisition of VCPL by AMG, VCPL issued a notice to RRPR on August 23, 2022 for conversion of 1,990,000 (One Million Nine Hundred and Ninety Thousand) RRPR Warrants, resulting into 1,990,000 (One Million Nine Hundred and Ninety Thousand) equity shares of RRPR. Upon completion of the issuance and allotment of the aforesaid equity shares to VCPL, VCPL now holds 99.50% (Ninety Nine point Five Zero percent) of the share capital of RRPR.

Upon the receipt of notice for conversion of RRPR Warrants, RRPR contested the conversion of RRPR Warrants and issuance of equity shares to VCPL on ground of restrictions imposed by an order passed by SEBI on November 27, 2020 and provisional attachment of the equity shares of NDTV held by RRPR by the tax authorities in the year 2017. The income tax authorities clarified that there is no restriction on RRPR to issue any shares and the restriction was imposed on selling or transfer of its shareholding in NDTV and from creating/causing any charge thereon only. Parties also applied for clarification from SEBI, but no response was received from SEBI on this. However, assuming that there was a restriction by SEBI on conversion of RRPR Warrants, the restriction was only till November 26, 2022.

Accordingly, the conversion of RRPR Warrants indirectly resulted in acquisition of 29.18% (Twenty Nine point One Eight percent) of the voting rights in NDTV by VCPL, and the same amounts to an indirect acquisition of shares as per SAST Regulations. Hence, VCPL, AMG and AEL, collectively issued the DLOF to the stock exchanges, SEBI and NDTV on August 23, 2022 and the final LOF on November 11, 2022 to purchase equity shares constituting 26% (Twenty Six percent) of the voting share capital of NDTV at a price of INR 294 (INR Two Hundred Ninety Four only) per equity share.

1 [https://www.business-standard.com/article/news-cm/adani-enterprises-acquires-100-stake-in-vcpl-122082301011\\_1.html](https://www.business-standard.com/article/news-cm/adani-enterprises-acquires-100-stake-in-vcpl-122082301011_1.html).

2 Para 3.1.4 (j)(i), at Page 21, LOF available at: <https://www.bseindia.com/xml-data/corpfiling/AttachLive/052309B7-5C8F-4333-9270-6AC53C1E07E5-200645.pdf>; Palak Shah, 2009 pact with VCPL leaves Roys no room to prevent Adani's bid to takeover NDTV, The Hindu Business Line, August 25, 2022, available at: <https://www.thehindubusinessline.com/companies/roys-vcpl-2009-pact-leaves-no-room-for-preventing-adanis-takeover-bid/article65809979.ece>; Adani Group to launch open offer for NDTV on Oct 17, Business Today, August 31, 2022, available at: <https://www.businesstoday.in/latest/corporate/story/adani-group-to-launch-open-offer-for-ndtv-on-oct-17-rrpr-vcpl-prannoy-roy-sebi-346011-2022-08-31>.

3 <https://www.outlookindia.com/business/adani-entities-make-open-offer-for-26-stake-in-ndtv--news-218390>.

4 <https://www.outlookindia.com/business/adani-entities-make-open-offer-for-26-stake-in-ndtv--news-218390>.

### 3. Executive Summary

However, pursuant to the Founder Purchase Transaction of 17,577,676 (Seventeen Million Five Hundred Seventy Seven Thousand Six Hundred and Seventy Six) equity shares of NDTV held by the Founders at INR 342.65 (INR Three Hundred Forty Two and Sixty Five only) per equity share by RRPR (now controlled by Adani Group), the Adani Group intended to pay the difference to the public shareholders who tendered their shares for sale against the public offer as required under the SAST Regulations by February 28, 2023.<sup>5</sup>

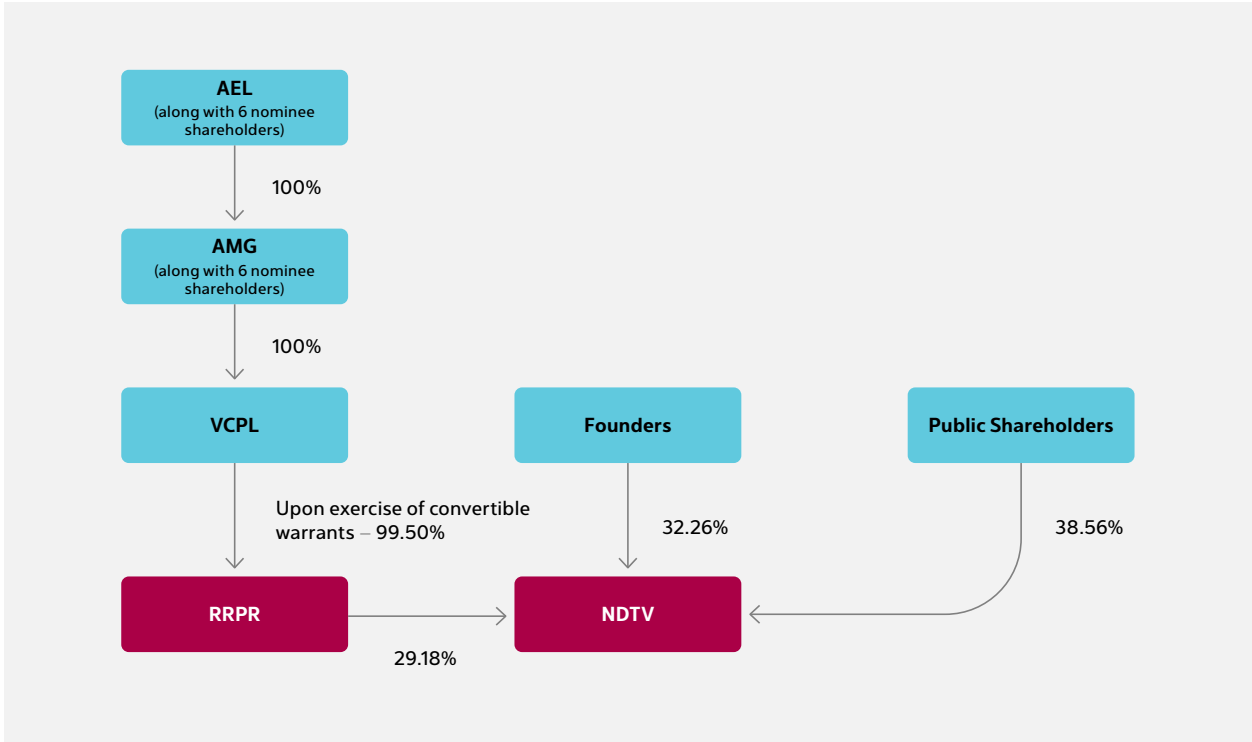
With the Deal Adani Group has become the majority shareholder of NDTV, with a 64.71% (Sixty Four point Seven One percent) stake in NDTV.

---

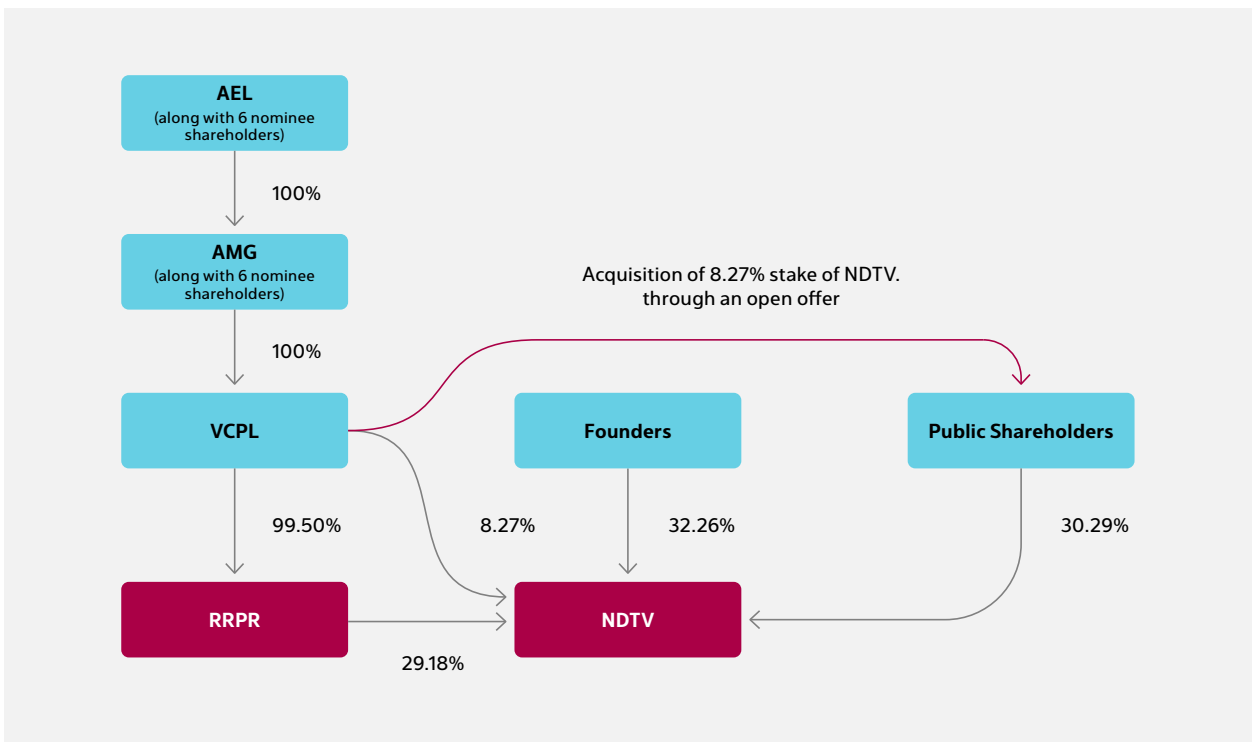
5 Public Notice dated January 2, 2023 filed with BSE on January 3, 2023 available at: <https://www.bseindia.com/xml-data/corpfiling/AttachHis/ddbf4445-f782-4dc0-a82c-a04af73c9285.pdf>.

# Deal Structure

## I. Structure of Target Company Pursuant to the Conversion Transaction

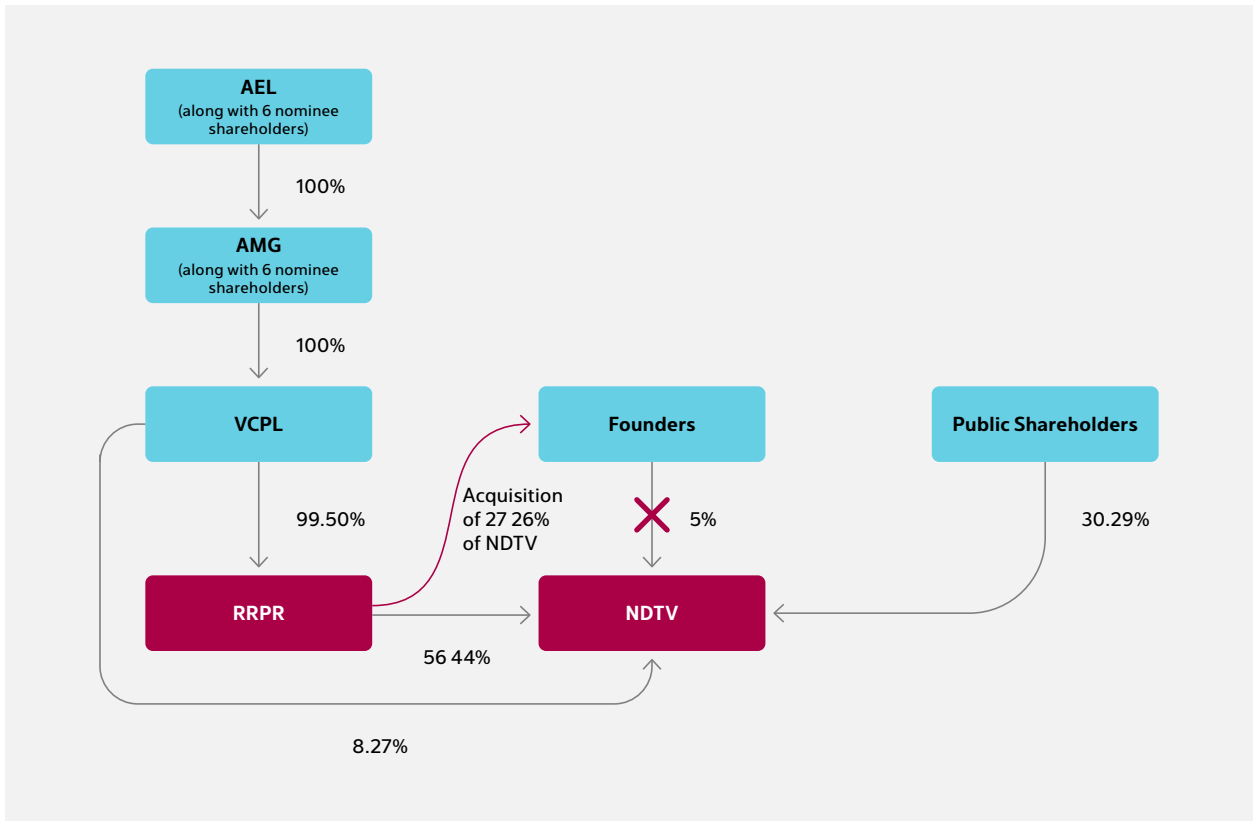


## II. Structure of Target Company Pursuant to the Open Offer



4. Deal Structure

III. Structure of Target Company Pursuant to the Founder Purchase Transaction



→ Grey lines reflect the structure pursuant to the specific transaction set out herein

→ Red line(s) reflects the Founder Purchase Transaction

# Deal Details

## I. Conversion Transaction

<b>Conversion Transaction</b>	29.18% (Twenty Nine point One Eight percent) of the voting capital of NDTV pursuant to exercise of convertible RRPR Warrants
<b>Conversion Transaction – Acquirer</b>	Vishvapradhan Commercial Private Limited
<b>Conversion Transaction – Consideration</b>	INR 19,900,000 (INR Nineteen Million Nine Hundred Thousand only) <sup>1</sup> (approximately USD 240,000) <sup>2</sup>

## II. Founder Purchase Transaction

<b>Founder Purchase Transaction</b>	27.26% (Twenty Seven point Two Six percent) of the voting capital of NDTV acquired by RRPR from the Founders
<b>Founder Purchase Transaction – Acquirer</b>	RRPR Holdings Private Limited
<b>Founder Purchase Transaction – Price per share</b>	INR 342.65 (INR Three Hundred Forty Two point Sixty Five only) per equity share of NDTV
<b>Founder Purchase Transaction – Shares</b>	17,577,676 (Seventeen Million Five Hundred and Seventy Seven Thousand Six Hundred and Seventy Six) equity shares of NDTV
<b>Founder Purchase Transaction Consideration</b>	INR 6,022,990,681.4 (INR Six Billion Twenty Two Million Nine Hundred Ninety Thousand Six Hundred Eighty One point Four cents) <sup>3</sup> (approximately USD 73,000,000)

1 Paragraph 3.1.4 (b) at Page 15 of LOF available at: <https://www.bseindia.com/xml-data/corpfiling/AttachLive/052309B7-5C8F-4333-9270-6AC53C1E07E5-200645.pdf>.

2 Paragraph 3.1.4 (b) at Page 15 of LOF available at: <https://www.bseindia.com/xml-data/corpfiling/AttachLive/052309B7-5C8F-4333-9270-6AC53C1E07E5-200645.pdf>.

3 1,75,77, 676 equity shares purchased from the Founders by RRPRP at the price of INR 342.65 per equity share, details available at: <https://economic-times.indiatimes.com/industry/media/entertainment/ndtvs-public-shareholders-to-get-the-same-price-offered-to-founders/articleshow/96719951.cms?from=mdr>.

## 5. Deal Details

## III. Open Offer

<b>Open Offer to the public shareholders</b>	16,762,530 (Sixteen Million Seven Hundred Sixty Two Thousand Five Hundred and Thirty) fully paid-up equity shares at the Initial Offer Price, representing 26% (Twenty Six percent) of the expanded voting share capital of NDTV <sup>4</sup>
<b>Open Offer – Acquirer</b>	Vishvapradhan Commercial Private Limited
<b>PACs</b>	AMG (“PAC 1”) and AEL (“PAC 2”)
<b>Initial Open Offer Price per share</b>	INR 294 (INR Two Hundred and Forty Nine only) per equity share of NDTV <sup>5</sup>
<b>New Open Offer Price per share</b>	INR 342.65 (INR Three Hundred Forty Two point Sixty Five Paise only) per equity share of NDTV
<b>Number of shares purchased in the Open Offer</b>	5,330,792 (Five Million Three Hundred Thirty Thousand Seven Hundred and Ninety Two) equity shares <sup>6</sup>
<b>Final Open Offer Consideration to be given to the public shareholders (completion by February 28, 2023)</b>	INR 1,826,595,878.8 (INR One Billion Eight Hundred Twenty Six Million Five Hundred Ninety Five Thousand Eight Hundred Seventy Eight point Eight Paise) (approximately USD 22,000,000) <sup>7</sup>
<b>Mode of Funding Open Offer</b>	Inter-corporate deposit from AMG to VCPL amounting to INR 5,000,000,000 <sup>8</sup> (INR Five Billion only) (approximately USD 60,000,000)

4 LOF available at: <https://www.bseindia.com/xml-data/corpfilings/AttachLive/052309B7-5C8F-4333-9270-6AC53C1E07E5-200645.pdf>.

5 LOF available at: <https://www.bseindia.com/xml-data/corpfilings/AttachLive/052309B7-5C8F-4333-9270-6AC53C1E07E5-200645.pdf>.

6 <https://www.livemint.com/market/stock-market-news/adani-group-s-vcpl-acquires-8-27-stake-in-ndtv-through-open-offer-11671508949144.html>.

7 53,30,792 equity shares were accepted in the Open Offer, and the price paid post the increase to match the price given to the Founders for the Founder Purchase Transaction was 342.65 per equity share. Details available at: <https://www.livemint.com/market/stock-market-news/adani-group-s-vcpl-acquires-8-27-stake-in-ndtv-through-open-offer-11671508949144.html>.

8 Para 6.2.4, at Page 61 of the LOF available at: <https://www.bseindia.com/xml-data/corpfilings/AttachLive/052309B7-5C8F-4333-9270-6AC53C1E07E5-200645.pdf>.

# Parties Involved in the Deal

## Adani Group

The Adani Group is an Indian multinational conglomerate. It has a diverse portfolio ranging from electricity generation to food processing and infrastructure. Gautam Adani is the founder of the Adani group.

The Adani group is a diversified organisation with a market cap of over USD 209,940,000,000 (USD Two Hundred Nine Billion Nine Hundred and Forty Million only) (as on July 29, 2022),<sup>1</sup> comprising seven publicly traded companies. It has created a utility and transport infrastructure portfolio that has a pan India presence. The headquarters of the Adani group is in Ahmedabad, Gujarat, India. The Adani group is a market leader in transport logistics and energy utility portfolio businesses focusing on large scale infrastructure development in India<sup>2</sup>.

## Adani Enterprises Limited

AEL is a public limited company, with company identification number L51100GJ1993PLC019067. It was incorporated on March 2, 1993 as Adani Exports Limited under the Companies Act, 1956 and the name was subsequently changed to Adani Enterprises Limited with effect from August 10, 2006. The registered office of AEL is located at Adani Corporate House, Shantigram, Near Vaishno Devi Circle, SG Highway Khodiyar Ahmedabad, Gujarat – 382421, India.<sup>3</sup>

## AMG Media Networks Limited

AMG Media Networks Ltd, a fully owned subsidiary of AEL, is the media arm of the Adani Group. In accordance with the news announcement, the new business would “*carry on the business of media-related activities, including publishing, advertising, broadcasting, and distributing information across various types of media networks.*”<sup>4</sup> AMG was incorporated on April 26, 2022 and is a public company with its registered office situated at Adani Corporate House, Near Vaishno Devi Circle, S. G. Highway, Khodiyar Ahmedabad, Gujarat 382421, India.<sup>5</sup>

## The Open Offer Acquirer (Vishvapradhan Commercial Private Limited)

VCPL is a private limited company engaged in the business of consultancy services and allied activities, with company identification number U51900HR2008PTC057018. VCPL was incorporated on February 25, 2008 under the Companies Act, 1956. The registered office of VCPL is located at 4th Floor, Plot No. 38, Institutional Area, Sector- 32, Gurgaon, Haryana 122001, India.

AMG, a wholly owned subsidiary of AEL, acquired a 100% (One Hundred percent) stake in VCPL for a consideration of INR 1,137,461,990 (INR One Billion One Hundred Thirty Seven Million Four Hundred Sixty One Thousand Nine Hundred and Ninety only) (approximately USD 14,000,000),<sup>6</sup> from Nextwave Televentures Private Limited. Additionally, VCPL had an outstanding loan of INR 4,038,500,000 (INR Four Billion Thirty Eight Million Five

1 <https://www.adani.com/About-us>.

2 <https://www.adani.com/About-us>.

3 <https://www.adanienterprises.com/About-us>.

4 <https://www.businesstoday.in/latest/corporate/story/adani-enterprises-ventures-into-media-with-amg-media-network-331445-2022-04-27>.

5 LOF available at: <https://www.bseindia.com/xml-data/corpfiling/AttachLive/052309B7-5C8F-4333-9270-6AC53C1E07E5-200645.pdf>.

6 [https://www.business-standard.com/article/news-cm/adani-enterprises-acquires-100-stake-in-vcpl-122082301011\\_1.html](https://www.business-standard.com/article/news-cm/adani-enterprises-acquires-100-stake-in-vcpl-122082301011_1.html).

## 6. Parties Involved in the Deal

Hundred Thousand only)<sup>7</sup> (approximately USD 48,000,000), from Eminent Networks Private Limited which was assigned to AMG. The total consideration for the above purchase of equity shares and assignment of loan aggregated to INR 1,137,461,990 (INR One Billion One Hundred Thirty Seven Million Four Hundred Sixty One Thousand Nine Hundred and Ninety only) (approximately USD 14,000,000). Post this aforementioned acquisition, 100% (One Hundred percent) of the paid up equity share capital consisting of 350,000 (Three Hundred and Fifty Thousand) equity shares was held by AMG and six nominee shareholders.<sup>8</sup>

### Target Company (New Delhi Television Limited)

NDTV is a public listed company, with corporate identification number L92111DL1988PLCo33099. NDTV was incorporated as New Delhi Television Private Limited on September 8, 1988 and changed its name to New Delhi Television Limited and became a public company with effect from August 31, 1994, pursuant to a fresh certificate of incorporation issued by the Registrar of Companies, Delhi and Haryana. The registered office of NDTV is located at B-50 A, 2nd Floor, Archana Complex, Greater Kailash-I, New Delhi, 110048, India. NDTV is in the media, entertainment and publication industry.<sup>9</sup>

### Promoter Company (RRPR Holdings Private Limited)

RRPR operates as an investment holding company with Prannoy Roy and Radhika Roy operating as directors and its registered office situated at E-186, Basement, Greater Kailash- I New Delhi DL 110048 India.<sup>10</sup>

### Founders (Prannoy Roy and Radhika Roy)

Prannoy Roy, aged 73 (Seventy Three) years, and Radhika Roy, aged 73 (Seventy Three) years, founded NDTV in 1988 and went on to respectively become chairperson and executive director<sup>11</sup> of the company till the acquisition by the Adani Group.<sup>12</sup> They also operated as the directors of RRPR until their resignation from the board in November, 2022.<sup>13</sup>

7 Para 3.1.4 (j)(i), at Page 21, LOF available at: <https://www.bseindia.com/xml-data/corpfiling/AttachLive/052309B7-5C8F-4333-9270-6AC53C1E07E5-200645.pdf>; Palak Shah, 2009 pact with VCPL leaves Roys no room to prevent Adani's bid to takeover NDTV, The Hindu Business Line, August 25, 2022, available at: <https://www.thehindubusinessline.com/companies/roys-vcpl-2009-pact-leaves-no-room-for-preventing-adanis-takeover-bid/article65809979.ece>; Adani Group to launch open offer for NDTV on Oct 17, Business Today, August 31, 2022, available at: <https://www.businesstoday.in/latest/corporate/story/adani-group-to-launch-open-offer-for-ndtv-on-oct-17-rrpr-vcpl-prannoy-roy-sebi-346011-2022-08-31>.

8 Paragraph 4.1.2 and Paragraph 4.1.3 at Page 27 of the LOF available at: <https://www.bseindia.com/xml-data/corpfiling/AttachLive/052309B7-5C8F-4333-9270-6AC53C1E07E5-200645.pdf>.

9 <https://www.ndtv.com/convergence/ndtv/corporatepage/images/NDTVAnnualReport2022.pdf>.

10 <https://economictimes.indiatimes.com/company/rrpr-holding-private-limited/U65993DL2005PTC139803>.

11 <https://www.outlookindia.com/business/adani-group-acquires-27-26-stake-in-ndtv-from-founders-roys-for-rs-602-crore-news-249458#:~:text=Adani%20Group%20acquired%20a%2029.18,per%20cent%20from%20public%20shareholders>.

12 <https://economictimes.indiatimes.com/industry/media/entertainment/media/ndtv-founders-resign-from-board-after-gautam-adani-takes-control/articleshow/96629320.cms>.

13 [https://www.business-standard.com/article/companies/radhika-prannoy-roy-resign-from-ndtv-promoter-firm-rrpr-holding-s-board-122112901551\\_1.html](https://www.business-standard.com/article/companies/radhika-prannoy-roy-resign-from-ndtv-promoter-firm-rrpr-holding-s-board-122112901551_1.html).



# Deal Timeline

## I. Part A

1. In December 2007, Radhika Roy and Prannoy Roy, the founders of NDTV (collectively “**Founders**”) bought back 7.73% (Seven point Seven Three percent) of NDTV from General Atlantic (GA) Global Investments Ltd. Pursuant to this buy-back, the Founders were obligated to make an open offer to the other minority shareholders of NDTV.<sup>1</sup>
2. The Founders incorporated RRPR in 2005,<sup>2</sup> which borrowed approximately INR 5,400,000,000 (INR Five Billion and Four Hundred Million only)<sup>3</sup> (approximately USD 65,000,000) from Indiabulls Financial Services Limited (“**Indiabulls**”) by pledging the Founders’ shares in NDTV as collateral to the loan.
3. However, as a result of the global financial crisis, the Founders had to avail an additional loan of INR 3,750,000,000 (INR Three Billion Seven Hundred and Fifty Million only)<sup>4</sup> (approximately USD 45,000,000) from ICICI Bank Limited at an interest rate of approximately 19%<sup>5</sup> (Nineteen percent) in order to repay Indiabulls.

## II. Part B

1. Saddled with financial difficulties due to the events detailed in *Part A* above, RRPR and the Founders entered into loan agreements dated July 21, 2009 and January 25, 2010 (collectively referred to as the “**Loan Agreements**”) with VCPL for INR 4,038,500,000 (INR Four Billion Thirty Eight Million Five Hundred Thousand only)<sup>6</sup> (approximately USD 48,000,000) on an interest-free basis for a period of 10 (Ten) years. In lieu of the loan, VCPL was issued 100,000,000 (One Hundred Million) share warrants by RRPR (“**RRPR Warrants**”). As per the terms of the RRPR Warrants, VCPL was eligible to: (i) the right to exercise any or all of the RRPR Warrants issued to it by RRPR, which upon exercise of all warrants, would result in equity shares amounting to 99.99% (Ninety Nine point Nine Nine percent) of the equity share capital of RRPR; and (ii) the right to purchase from the Founders, all the 10,000 (Ten Thousand) equity shares of RRPR held by the Founders at par value.<sup>7</sup>
2. The Adani Group, through its wholly owned subsidiary AMG, acquired 100% (One Hundred percent) equity stake in VCPL, in accordance with the share purchase agreement dated 23 August 2022 executed between AMG, Nextwave Televentures, Eminent Networks and VCPL.<sup>8</sup>

1 [https://www.business-standard.com/article/current-affairs/adani-group-s-open-offer-for-ndtv-to-begin-today-what-has-happened-so-far-122112200422\\_1.html](https://www.business-standard.com/article/current-affairs/adani-group-s-open-offer-for-ndtv-to-begin-today-what-has-happened-so-far-122112200422_1.html).

2 <https://economictimes.indiatimes.com/company/rrpr-holding-private-limited/U65993DL2005PTC139803>.

3 [https://www.business-standard.com/article/companies/rrpr-holdings-board-has-to-act-in-its-fiduciary-capacity-say-lawyers-122082800763\\_1.html#:~:text=To%20finance%20the%20open%20offer,to%20repay%20Indiabulls%20Financial%20Services](https://www.business-standard.com/article/companies/rrpr-holdings-board-has-to-act-in-its-fiduciary-capacity-say-lawyers-122082800763_1.html#:~:text=To%20finance%20the%20open%20offer,to%20repay%20Indiabulls%20Financial%20Services).

4 <https://finshots.in/markets/the-adani-ndtv-saga-everything-you-need-to-know>.

5 <https://finshots.in/markets/the-adani-ndtv-saga-everything-you-need-to-know>.

6 Para 3.1.4 (j)(i), at Page 21, LOF available at: <https://www.bseindia.com/xml-data/corpfiling/AttachLive/052309B7-5C8F-4333-9270-6AC53C1E07E5-200645.pdf>; Palak Shah, 2009 pact with VCPL leaves Roys no room to prevent Adani’s bid to takeover NDTV, The Hindu Business Line, August 25, 2022, available at: <https://www.thehindubusinessline.com/companies/roys-vcpl-2009-pact-leaves-no-room-for-preventing-adanis-takeover-bid/article65809979.ece>; Adani Group to launch open offer for NDTV on Oct 17, Business Today, August 31, 2022, available at: <https://www.businesstoday.in/latest/corporate/story/adani-group-to-launch-open-offer-for-ndtv-on-oct-17-rrpr-vcpl-prannoy-roy-sebi-346011-2022-08-31>.

7 LOF available at: <https://www.bseindia.com/xml-data/corpfiling/AttachLive/052309B7-5C8F-4333-9270-6AC53C1E07E5-200645.pdf>.

8 [https://www.business-standard.com/article/news-cm/adani-enterprises-acquires-100-stake-in-vcpl-122082301011\\_1.html](https://www.business-standard.com/article/news-cm/adani-enterprises-acquires-100-stake-in-vcpl-122082301011_1.html).

## 7. Deal Timeline

3. On August 23, 2022,<sup>9</sup> VCPL exercised 1,990,000 (One Million Nine Hundred and Ninety Thousand) RRPR Warrants, resulting into 1,990,000 (One Million Nine Hundred and Ninety Thousand) equity shares of RRPR, constituting 99.50% (Ninety Nine point Five Zero) of the equity capital of RRPR post allotment of the equity shares for INR 19,900,000 (INR Nineteen Million and Nine Hundred Thousand only) (approximately USD 240,000). As per the terms of RRPR Warrants, the issue and allotment should have been completed within 2 (Two) days. This aforesaid issuance was completed on November 28, 2022 (*rationale for the delay is detailed in point 5*), resulting in VCPL acquiring 29.18% (Twenty Nine point One Eight percent) of the voting share capital of NDTV,<sup>10</sup> and the same is an indirect acquisition of shares as per the SAST Regulations.
4. Hence, VCPL, AMG and AEL collectively issued the DLOF to the stock exchanges, SEBI and NDTV on August 23, 2022 and the final LOF on November 11, 2022 to purchase equity shares constituting 26% (Twenty Six percent) of the voting share capital of NDTV at a price of INR 294 (INR Two Hundred Ninety Four only) per equity share.<sup>11</sup>
5. However, RRPR did not issue the equity shares to VCPL citing restrictions imposed by SEBI through an earlier order.<sup>12</sup> Ultimately, on November 28, 2022, RRPR issued 1,990,000 (One Million Nine Hundred and Ninety Thousand) equity shares to VCPL. VCPL now holds 99.50% (Ninety Nine point Five Zero percent) of the share capital of RRPR.
6. During the pendency of the Open Offer to the shareholders of NDTV by Adani Group, on December 30, 2022, RRPR purchased 17,577,676 (Seventeen Million Five Hundred Seventy Seven Thousand Six Hundred Seventy Six) equity shares of NDTV held by the Founders at INR 342.65 (INR Three Hundred Forty Two point Sixty Five Paise only) per equity share. Consequently, Adani Group issued a public notice on January 02, 2023, that they will be making an additional payment of INR 48.65 (INR Forty Eight point Sixty Five Paise) per equity share to such public shareholders of NDTV whose shares were accepted in the open offer. The said payment will be made by February 28, 2023.<sup>13</sup>
7. We will analyse the legal, regulatory, tax and commercial dimensions of this intricate Deal below.

9 <https://www.businesstoday.in/latest/corporate/story/ndtv-buyout-i-t-dept-says-no-restrictions-on-rrpr-for-warrant-conversion-346867-2022-09-10>.

10 [https://www.business-standard.com/article/companies/what-is-adani-s-open-offer-route-to-acquire-ndtv-how-does-it-work-122112600890\\_1.html#:~:text=August%2023%2C%202022%3A%20The%20Gautam,cent%20stake%20in%20NDTV%20Ltd.](https://www.business-standard.com/article/companies/what-is-adani-s-open-offer-route-to-acquire-ndtv-how-does-it-work-122112600890_1.html#:~:text=August%2023%2C%202022%3A%20The%20Gautam,cent%20stake%20in%20NDTV%20Ltd.)

11 LOF available at: <https://www.bseindia.com/xml-data/corpfilings/AttachLive/052309B7-5C8F-4333-9270-6AC53C1E07E5-200645.pdf>.

12 SEBI order in the matter of New Delhi Television Limited – 2 Entities, WTM/SM/IVD/ID2/9711/2020-21, dated November 27, 2020, available at [https://www.sebi.gov.in/enforcement/orders/nov-2020/order-in-the-matter-of-new-delhi-television-limited-mr-prannoy-roy-and-mrs-radhika-roy\\_48314.html](https://www.sebi.gov.in/enforcement/orders/nov-2020/order-in-the-matter-of-new-delhi-television-limited-mr-prannoy-roy-and-mrs-radhika-roy_48314.html).

13 Public Notice dated January 2, 2023 filed with BSE on January 3, 2023 available at: <https://www.bseindia.com/xml-data/corpfilings/AttachHis/ddbf4445-f782-4dc0-a82c-a04af73c9285.pdf>.

# Commercial and Financial Considerations

## I. What is a Hostile Takeover?

Before delving into the nuances of the Deal, we shall examine the context in which hostile takeovers occur and the strategies available to target companies in order to tackle such a takeover. In simple terms, a hostile takeover is when a company acquires a target entity without the consent of its board of directors.

A hostile takeover can play out in a multiplicity of ways, the most recent example being the widely covered hostile takeover of Twitter Inc. by Elon Musk.<sup>1</sup> In the case of Twitter, last year, Musk began acquiring shares in the company and eventually became the largest shareholder with a shareholding of 9.20%<sup>2</sup> (Nine point Two Zero percent) in Twitter. Subsequently, Musk offered to buy Twitter at a price of approximately USD 54.20 (USD Fifty Four point Two Zero) per share at a 38% (Thirty Eight percent) premium over the day before Musk's investment in Twitter became public.<sup>3</sup> Twitter sought to tackle this hostile takeover by invoking a "*poison pill*".<sup>4</sup> Effectively, a poison pill permitted the then current shareholders of Twitter to purchase additional shares at a discounted price, thereby diluting the shares owned by Musk and making it more expensive for him to purchase the company. However, eventually, the board of directors accepted the offer from Elon Musk.<sup>5</sup>

A poison pill is just one of the many strategies at the disposal of a target company to thwart attempts of a hostile takeover. Another fascinating game plan available to target companies is the "*Pac-Man Defense*" whereby a target company can turn the tables on its would-be acquirer and instead takeover such would-be acquirer. A real-life example of the Pac-Man Defense at play was when Porsche acquired 31.50% (Thirty One point Five Zero percent) of Volkswagen, thereby increasing Porsche's stake in the company to 74.10% (Seventy Four point One Zero percent).<sup>6</sup> However, shortly after the acquisition, the 2008 economic crisis began and Porsche faced a lot of financial difficulties which eventually paved the way for Volkswagen to step in as a "white knight" and acquire Porsche<sup>7</sup> in a bid to prevent Porsche from being liquidated.

The "*White Knight Defense*" is another strategy available whereby a target company can evade a potential hostile takeover by reaching out to a friendly investor to swoop in and acquire the target company on equitable terms and for a generous consideration. Accordingly, the "white knight" or friendly investor would block a potential hostile acquirer from taking over the target company by beating them to the punch. As envisaged earlier, Volkswagen acquiring Porsche hindered any hostile acquirers from swooping in to exploit the financial distress that Porsche was under and the intricate history between Volkswagen and Porsche can be viewed as the perfect example of both the "*Pac-Man*" and "*White Knight*" doctrines operating simultaneously.

There are several other strategies available to potential target companies to evade a hostile takeover such as stock repurchase, greenmail (the purchase of its own shares from the acquirer at a premium), change of control

1 <https://www.bbc.com/news/technology-63402338>.

2 [https://www.sec.gov/Archives/edgar/data/1418091/000110465922041911/tm2211482d1\\_sc13g.htm](https://www.sec.gov/Archives/edgar/data/1418091/000110465922041911/tm2211482d1_sc13g.htm).

3 <https://www.cnn.com/2022/04/14/elon-musk-offers-to-buy-twitter-for-54point20-a-share-saying-it-needs-to-be-transformed-as-private-company.html>.

4 <https://edition.cnn.com/2022/04/15/tech/twitter-elon-musk-poison-pill/index.html>.

5 [https://www.google.com/search?q=twitter+board+accepts+musk+offer&rlz=1C1GCEV\\_enIN913IN913&oq=twitter+board+accepts&aqs=chrome.0.0i512j69i57j0i22i30j0i390i4.2822j0j4&sourceid=chrome&ie=UTF-8](https://www.google.com/search?q=twitter+board+accepts+musk+offer&rlz=1C1GCEV_enIN913IN913&oq=twitter+board+accepts&aqs=chrome.0.0i512j69i57j0i22i30j0i390i4.2822j0j4&sourceid=chrome&ie=UTF-8).

6 <https://www.wsj.com/articles/SB122506315406770367>.

7 <https://www.bbc.com/news/business-18718087>.

## 8. Commercial and Financial Considerations

provisions in the charter document of the target company, etc. Over time, target companies have come up with innovative formulas to obstruct a hostile acquisition.

In the context of the current Deal, the Founders had taken out two loans amounting to INR 4,038,500,000 (INR Four Billion Thirty Eight Million Five Hundred Thousand only)<sup>8</sup> (approximately USD 48,000,000) from VCPL (*please refer to the 'deal timeline' section for the timeline*). As consideration for the aforementioned loans, the Founders issued share warrants to VCPL that effectively allowed VCPL to acquire a 29.18% (Twenty Nine point One Eight percent) stake in NDTV upon conversion. The Adani Group through its wholly owned subsidiary, AMG, acquired VCPL in August 2022 and VCPL issued its warrant exercise notice to RRPR – thereby resulting in AMG acquiring a controlling stake in NDTV upon the conversion of the RRPR Warrants. However, given the considerable quantum of debt that RRPR had accumulated, there were very limited avenues for the Founders to thwart the Deal.

## II. How will this Deal Benefit the Adani Group?

Post the consummation of the Deal, NDTV is indirectly owned by AMG – the media arm of the Adani Group. This Deal will be extremely beneficial for the Adani Group in a plethora of ways.

At a holistic level, owing to the digital boom witnessed in the recent years, it is predicted that India's entertainment and media industry will hit a whopping INR 4,304,010,000,000 (INR Four Trillion Three Hundred Four Billion and Ten Million only)<sup>9</sup> (Approximately USD 52,000,000,000) by 2026 at a compound annual growth rate of 8.80% (Eight point Eight Zero percent).<sup>10</sup> Given the anticipated growth and revenue trajectory of this industry, it is easy to discern why the Adani Group would want a slice of this pie. The Adani Group first forayed into the media sector earlier last year when AMG acquired a 49% (Forty Nine percent) stake in the digital news platform, Quintillion Business Media Private Limited.<sup>11</sup> Post this acquisition, the Adani Group set its sights to acquiring a bigger player in the same industry and landed upon NDTV.

As per a recent study undertaken by the Reuters Institute,<sup>12</sup> NDTV was established as the news outlet with the most extensive online reach and second largest offline reach (falling only behind the Times of India).<sup>13</sup> It has been forecasted that India will have around 900,000,000 (Nine Hundred Million) internet users by 2025,<sup>14</sup> rendering the acquisition of NDTV by the Adani Group even more instrumental given NDTV's massive and ever-growing online presence in the digital news domain.

8 Para 3.1.4 (j)(i), at Page 21, LOF available at: <https://www.bseindia.com/xml-data/corpfilings/AttachLive/052309B7-5C8F-4333-9270-6AC53C1E07E5-200645.pdf>; Palak Shah, 2009 pact with VCPL leaves Roys no room to prevent Adani's bid to takeover NDTV, The Hindu Business Line, August 25, 2022, available at: <https://www.thehindubusinessline.com/companies/roys-vcpl-2009-pact-leaves-no-room-for-preventing-adanis-takeover-bid/article65809979.ece>; Adani Group to launch open offer for NDTV on Oct 17, Business Today, August 31, 2022, available at: <https://www.businesstoday.in/latest/corporate/story/adani-group-to-launch-open-offer-for-ndtv-on-oct-17-rrpr-vcpl-prannoy-roy-sebi-346011-2022-08-31>.

9 <https://www.pwc.in/press-releases/2022/indias-entertainment-and-media-industry-expected-to-grow-at-88-percentage-cagr-to-reach-inr-430401cr-by-2026-pwc-report.html>.

10 <https://www.pwc.in/press-releases/2022/indias-entertainment-and-media-industry-expected-to-grow-at-88-percentage-cagr-to-reach-inr-430401cr-by-2026-pwc-report.html>.

11 <https://www.thehindubusinessline.com/companies/adanis-media-venture-to-buy-49-stake-in-quintillion-business-media/article65416635.ece>.

12 <https://reutersinstitute.politics.ox.ac.uk/digital-news-report/2022/india>.

13 <https://reutersinstitute.politics.ox.ac.uk/digital-news-report/2022/india>.

14 <https://www.livemint.com/news/india-to-have-around-900-million-internet-users-by-2025-report-11659063114684.html>.

## 8. Commercial and Financial Considerations

Sanjay Pugalía, the chief executive officer of AMG had stated that “*NDTV is the most suitable broadcast and digital platform to deliver on our vision*”<sup>15</sup> and the Deal will “*pave the path of new age media across platforms*”.<sup>16</sup> The significance of a news network and its ability to influence the cultural landscape of a country cannot be ignored and it seems that the Adani Group has paid heed to this fact while foraying into this new domain.

### III. How did NDTV Contest the Deal?

The consummation of the Deal effectively resulted in the Adani Group ousting the Founders from their controlling stake in the news network. It came as no surprise that the Founders sought to hinder the acquisition by the Adani Group through any means possible.

The first assertion by the Founders in this regard was that the Adani Group would require the prior approval from SEBI for the consummation of the Deal. In 2020, SEBI had barred the Founders from trading on the securities market for a period of 2 (Two) years (which expired on November 26, 2022) on account of insider trading.<sup>17</sup> We have delved into the SEBI Order (*as defined hereinafter*) in further detail under Question X – Legal Considerations. Accordingly, the Founders had contested that until the appeal proceedings filed by the Founders in relation to the SEBI Order had been concluded, the Adani Group would require prior approval from SEBI since the Conversion Transaction would result in AMG indirectly acquiring 29.18% (Twenty Nine point One Eight percent) of the issued share capital in NDTV.

However, the Adani Group countered this assertion by arguing that the warrant exercise notice issued by VCPL was in furtherance of the Loan Agreements, which were legally binding on RRPR.<sup>18</sup> Accordingly, RRPR was contractually obligated to adhere to the terms of the same.

Secondly, the Founders also contended that VCPL’s decision to exercise its share warrants would require the prior approval of the income tax authorities (“**IT Department**”) in accordance with Section 281 of the IT Act, since the equity shares held by the Founders in RRPR were provisionally attached by the IT Department due to a reassessment proceeding.<sup>19</sup> Yet again, Adani countered the argument put forth by the Founders by adopting the position that the prior approval of the IT Department would not be necessary given that the restriction only applied to the shares held by RRPR in NDTV and would have no impact on the allotment of equity shares to VCPL in furtherance of its warrant exercise notice.<sup>20</sup> We have analyzed this issue in further detail under Tax Considerations.

Accordingly, while the aforementioned arguments put forth by the Founders may have stalled the Deal, it did little to block the inevitable.

15 <https://www.reuters.com/markets/deals/indias-adani-buy-292-stake-ndtv-launch-open-offer-2022-08-23>.

16 <https://www.livemint.com/news/india/vcpl-all-you-need-to-know-about-ndtv-s-new-owner-11661306431165.html>.

17 <https://www.newindianexpress.com/business/2022/aug/25/ndtv-cites-regulatory-grounds-to-block-adani-takeover-2491298.html>.

18 <https://www.india.com/business/race-for-ndtv-adani-says-roys-bid-to-block-takeover-legally-untenable-5594060>.

19 <https://www.thehindubusinessline.com/companies/ndtv-promoters-seek-it-authorities-approval-before-transferring-shares-to-adani/article65836381.ece>.

20 [https://www.business-standard.com/article/companies/adani-rejects-ndtv-contention-that-stake-sale-needs-it-dept-approval-122090101272\\_1.html](https://www.business-standard.com/article/companies/adani-rejects-ndtv-contention-that-stake-sale-needs-it-dept-approval-122090101272_1.html).

## 8. Commercial and Financial Considerations

## IV. How did Adani Fund the Acquisition?

VCPL made an open offer to acquire at least 26% (Twenty Six percent) of the equity shares of NDTV from the public shareholders as required by the SAST Regulations. Accordingly, VCPL along with AMG and AEL, i.e., the Adani Group, proposed to acquire an additional 26% (Twenty Six percent) at the Initial Open Offer Price.<sup>21</sup>

26% (Twenty Six percent) equity shares of NDTV represented 16,762,530 (Sixteen Million Seven Hundred Sixty Two Thousand Five Hundred and Thirty) equity shares of NDTV, however, only 5,330,792 (Five Million Three Hundred Thirty Thousand Seven Hundred and Ninety Two) equity shares of NDTV were accepted in the Open Offer. Post this, the Adani Group announced that the gap between the Initial Open Offer Price given to the public shareholders and the Founder Purchase Transaction Price given to the Founders will be plugged by offering the public shareholders INR 48.65 more per equity share, to be paid by February 28, 2023.

The financial resources required to pay the consideration for the Open Offer to the public shareholders was provided by AMG to VCPL by way of inter-corporate deposit amounting to INR 5,000,000,000<sup>22</sup> (INR Five Billion only) (approximately USD 60,000,000) This figure was the aggregate funding required for the Open Offer as well as for Conversion Transaction Consideration.<sup>23</sup> The same was approved by the board of directors of AMG and a commitment letter dated August 23, 2022 was issued regarding the same. Further, the statutory auditors of AMG had confirmed its capabilities to meet the funding commitments towards the aforesaid inter-corporate deposit to VCPL.<sup>24</sup> In turn AMG had availed an unsecured loan of an amount of INR 7,500,000,000 (INR Seven Billion Five Hundred Million only) (Approximately USD 91,000,000) from its parent, AEL.<sup>25</sup>

21 Press Trust of India, Committed to completing open offer process for 26% NDTV stake: Adani group, Business Standard, October 19, 2022, available at: [https://www.business-standard.com/article/companies/committed-to-complete-open-offer-process-for-26-stake-in-ndtv-adani-group-122101901070\\_1.html](https://www.business-standard.com/article/companies/committed-to-complete-open-offer-process-for-26-stake-in-ndtv-adani-group-122101901070_1.html); Nikhil Agarwal, Adani firms to acquire 29.18% stake in NDTV and launch open for another 26% stake, ET Market, August 23, 2022, [https://economictimes.indiatimes.com/markets/stocks/news/adani-firms-make-open-offer-for-acquiring-26-stake-in-ndtv-for-rs-294-per-share/articleshow/93734023.cms?utm\\_source=contentofinterest&utm\\_medium=text&utm\\_campaign=cppst](https://economictimes.indiatimes.com/markets/stocks/news/adani-firms-make-open-offer-for-acquiring-26-stake-in-ndtv-for-rs-294-per-share/articleshow/93734023.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst).

22 Para 6.2.4, at Page 61 of the LOF available at: <https://www.bseindia.com/xml-data/corpfilings/AttachLive/052309B7-5C8F-4333-9270-6AC53C1E07E5-200645.pdf>.

23 Para 6.2.4, at Page 61 of the LOF available at: <https://www.bseindia.com/xml-data/corpfilings/AttachLive/052309B7-5C8F-4333-9270-6AC53C1E07E5-200645.pdf>.

24 Para 6.2.4, at Page 61 of the LOF available at: <https://www.bseindia.com/xml-data/corpfilings/AttachLive/052309B7-5C8F-4333-9270-6AC53C1E07E5-200645.pdf>.

25 Para 6.2.4, at Page 61 of the LOF available at: <https://www.bseindia.com/xml-data/corpfilings/AttachLive/052309B7-5C8F-4333-9270-6AC53C1E07E5-200645.pdf>.



# Legal and Regulatory Considerations

## I. How was the Takeover Structured by the Adani Group?

Before the takeover, the Founders owned and controlled RRPR. The Founders were the directors of NDTV and held 61.45% (Sixty One point Four Five percent) stake in NDTV.<sup>1</sup>

In June 2008, the Founders borrowed a sum of around INR 5,400,000,000 (INR Five Billion and Four Hundred Million only) (Approximately USD 65,000,000) from Indiabulls to finance an open offer for the shares of NDTV (refer to Part A, point 1 of the Deal Timeline for details pertaining to the aforementioned open offer). In October 2008, the Founders took a loan of INR 3,750,000,000 (INR Three Billion Seven Hundred and Fifty Million only) (approximately USD 45,000,000) from ICICI Bank Limited, to repay the loan from Indiabulls. The Founders then took a loan of INR 3,500,000,000 (INR Three Billion Five Hundred Million only) (approximately USD 42,000,000) in July 2009 and a loan of INR 538,500,000 (INR Five Hundred Thirty Eight Million and Five Hundred Thousand only) (approximately USD 7,000,000) in January 2010, from VCPL to repay the loan from ICICI Bank Limited.

One of the conditions precedent to the execution of the loan agreement with VCPL was the sale of 11,563,683 (Eleven Million Five Hundred Sixty Three Thousand Six Hundred and Eighty Three) shares of NDTV from the Founders to RRPR such that RRPR holds 26% (Twenty Six percent) shares of NDTV. As per the loan agreement, the tenure of the loan was 10 (Ten) years and the loan did not carry any interest. Further, pursuant to this loan, RRPR issued a convertible warrant to VCPL, convertible into equity shares aggregating to 99.99% (Ninety Nine point Nine Nine percent) of the fully diluted equity share capital of RRPR at the time of conversion, convertible at any time during the tenure of the loan or thereafter. VCPL also had the right to purchase from the Founders 10,000 (Ten Thousand) equity shares of RRPR at par value.<sup>2</sup>

VCPL is a private company incorporated on February 25, 2008. VCPL was incorporated as a shell company with no assets. As per statutory filings made by VCPL in 2012, it was acquired by Nextwave Televenture Private Limited and Skyblue Buildwell Private Limited. Both Nextwave Televenture Private Limited and Skyblue Buildwell Private Limited are linked to Mahendra Nahata, a director at Reliance Jio Infocomm Limited, a subsidiary of Reliance India Limited.<sup>3</sup>

AMG, a wholly owned subsidiary of AEL acquired 100% (One Hundred percent) equity stake in VCPL in accordance with a purchase agreement dated August 23, 2022.<sup>4</sup>

Post the acquisition of VCPL by AMG, pursuant to the terms of the loan agreement, VCPL exercised 1,990,000 (One Million Nine Hundred and Ninety Thousand) warrants (a portion of the warrants), resulting into 1,990,000 (One Million Nine Hundred and Ninety Thousand) equity shares of RRPR, constituting 99.5% (Ninety Nine point Five percent) of the equity capital of RRPR post allotment of the equity shares pursuant to exercise of the above warrants, for INR 19,900,000 (INR Nineteen Million Nine Hundred Thousand only) (approximately USD 240,000) by issuing a notice dated August 23, 2022. VCPL, at its sole discretion, also had the option to exercise

1 Page 44 of LOF available at: <https://www.bseindia.com/xml-data/corpfiling/AttachLive/052309B7-5C8F-4333-9270-6AC53C1E07E5-200645.pdf>.

2 Vishvapradhan Commercial Private Limited v. Securities and Exchange Board of India, Securities Appellate Tribunal, Mumbai, Order dated July 20, 2022, available at: [https://sat.gov.in/english/pdf/E2022\\_JO2018293.PDF](https://sat.gov.in/english/pdf/E2022_JO2018293.PDF).

3 Ashish Rukhaiyar, Adani's NDTV buyout: A saga with many twists and turns, 13 years in the making, August 24, 2022 available at: <https://www.businesstoday.in/business/story/adanis-ndtv-buyout-a-saga-with-many-twists-and-turns-13-years-in-the-making-345480-2022-08-24>.

4 Adani Enterprises acquires 100% stake in VCPL, dated August 23, 2022 available at: [https://www.business-standard.com/article/news-cm/adani-enterprises-acquires-100-stake-in-vcpl-122082301011\\_1.html](https://www.business-standard.com/article/news-cm/adani-enterprises-acquires-100-stake-in-vcpl-122082301011_1.html).

## 9. Legal and Regulatory Considerations

the balance warrants to acquire up to 99.99% (Ninety Nine point Nine Nine percent) of the equity share capital of RRPR at any time and in such manner as it may deem fit.<sup>5</sup>

RRPR held 18,813,928 (Eighteen Million Eight Hundred and Thirteen Thousand Nine Hundred and Twenty Eight) equity shares in NDTV, representing 29.18% (Twenty Nine point One Eight percent) of the voting share capital of NDTV, and is disclosed as part of its promoter group. Thus, the aforementioned transaction resulted in a deemed direct acquisition of voting rights in excess of 25% (Twenty Five percent) of NDTV (“**Conversion Transaction**”).<sup>6</sup>

Pursuant to the Conversion Transaction, VCPL did not directly acquire any equity shares of NDTV but held 99.5% (Ninety Nine point Five percent) of the paid-up share capital of RRPR, which held 18,813,928 (Eighteen Million Eight Hundred and Thirteen Thousand Nine Hundred and Twenty Eight) equity shares in NDTV constituting 29.18% (Twenty Nine point One Eight percent) of the voting share capital of NDTV. Adani Group made an open offer to all public shareholders of NDTV to acquire at least 16,762,530 (Sixteen Million Seven Hundred Sixty Two Thousand Five Hundred and Thirty) equity shares, constituting 26% (Twenty Six percent) of the voting share capital of NDTV at an offer price of INR 294 (INR Two Hundred Ninety Four only) per equity share. Pursuant to the Open Offer, the Adani Group acquired 8.27% (Eight point Two Seven percent) of the share capital of NDTV.<sup>7</sup>

On December 30, 2022, the Founders transferred 13.44% (Thirteen point Four Four percent) and 13.82% (Thirteen point Eight Two percent) of their respective shareholding in NDTV to RRPR (which is now indirectly held by AMG, a part of the Adani Group).<sup>8</sup> Adani Group, through acquisition of majority stake in RRPR, acquiring shares through the Open Offer from the public shareholders and the Founder Purchase Transaction, acquired controlling stake of 64.71% (Sixty Four point Seven One percent) of NDTV.<sup>9</sup>

## II. What is an Open Offer? What Triggered the Open Offer in the Present Transaction?

An open offer is made by an acquiring company to the shareholders of the target company, inviting them to sell their shares at a particular price. The purpose of an open offer is to provide an exit option to the target company’s shareholders since there is a change in control or substantial acquisition of shares.<sup>10</sup> Any open offer made under the SAST Regulations, is required to be made to all shareholders of the target company, other than the acquirer, PAC and the parties to any underlying agreement including persons deemed to be acting in concert with such parties for the sale of shares of the target company.<sup>11</sup>

5 Paragraph 3.1.4 (b) at Page 15 of LOF available at: <https://www.bseindia.com/xml-data/corpfilings/AttachLive/052309B7-5C8F-4333-9270-6AC53C1E07E5-200645.pdf>.

6 Paragraph 3.1.4 (d) at Page 16, LOF available at: <https://www.bseindia.com/xml-data/corpfilings/AttachLive/052309B7-5C8F-4333-9270-6AC53C1E07E5-200645.pdf>.

7 Post Offer Advertisement date December 20, 2022 submitted to BSE available at: <https://www.bseindia.com/xml-data/corpfilings/AttachHis/E83A402E-A83A-4815-889A-D37D4A2845DE-151352.pdf>.

8 Disclosure under Regulation 29(2) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 dated December 30, 2022 submitted to BSE available at: <https://www.bseindia.com/xml-data/corpfilings/AttachHis/1d799af2-ea0f-44f3-94cc-12f1f097edcd.pdf>.

9 <https://www.timesnownews.com/business-economy/companies/ndtv-founders-prannoy-roy-radhika-roy-sell-ndtv-stake-to-adani-for-rs-602-core-article-96638549>.

10 Jayshree P. Upadhyay, What is an open offer and how is it priced, dated August 24, 2022 available at: <https://www.livemint.com/market/stock-market-news/what-is-an-open-offer-and-how-is-it-priced-11661326203597.html>.

11 Regulation 7(6) of the SAST Regulations.



## 9. Legal and Regulatory Considerations

### Mandatory Open Offer

As per the SAST Regulations, mandatory open offer is triggered in the following cases:

- a) Acquisition of shares or voting rights entitling the acquirer and PAC to exercise 25% (Twenty Five percent) or more of voting rights in the target company,<sup>12</sup> or
- b) Acquisition of additional shares or voting rights entitling the acquirer and PAC to exercise more than 5% (Five percent) of voting rights in a financial year by an acquirer who together with PAC already holds 25% (Twenty Five percent) or more but less than 75% (Seventy Five percent) of the capital in the target company;<sup>13</sup> or
- c) Acquisition of control over the target company.<sup>14</sup>

### Direct and Indirect Acquisition

The obligation to provide a mandatory open offer is triggered in case of both direct or indirect acquisitions. Direct acquisition is an acquisition of shares or voting rights or control in the target company, whereas, Regulation 5 of the SAST Regulation describes an indirect acquisition, as below:

**“Indirect acquisition of shares or control:**

5. (1) For the purposes of regulation 3 and regulation 4, acquisition of shares or voting rights in, or control<sup>15</sup> over, any company or other entity, that would enable any person and persons acting in concert with him to exercise or direct the exercise of such percentage of voting rights in, or control over, a target company, the acquisition of which would otherwise attract the obligation to make a public announcement of an open offer for acquiring shares under these regulations, shall be considered as an indirect acquisition of shares or voting rights in, or control over the target company.

(2) Notwithstanding anything contained in these regulations, in the case of an indirect acquisition attracting the provisions of sub-regulation (1) where —

(a) the proportionate net asset value of the target company as a percentage of the consolidated net asset value of the entity or business being acquired;

(b) the proportionate sales turnover of the target company as a percentage of the consolidated sales turnover of the entity or business being acquired; or

(c) the proportionate market capitalisation of the target company as a percentage of the enterprise value for the entity or business being acquired;

is in excess of eighty per cent, on the basis of the most recent audited annual financial statements, such indirect acquisition shall be regarded as a direct acquisition of the target company for all purposes of these regulations including without limitation, the obligations relating to timing, pricing and other compliance requirements for the open offer.”

<sup>12</sup> Regulation 3(1) of the SAST Regulations.

<sup>13</sup> Regulation 3(2) of the SAST Regulations.

<sup>14</sup> Regulation 4 of the SAST Regulations.

<sup>15</sup> Section 2 (e) of the SAST Regulations defines “control” to include the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner. However, a director or officer of a target company shall not be considered to be in control over such target company, merely by virtue of holding such position.

## 9. Legal and Regulatory Considerations

As mentioned above, an indirect acquisition will be deemed to be a direct acquisition under the SAST Regulations if the thresholds provided in Regulation 5(2) above are met.

### Voluntary Open Offer

Regulation 6 of the SAST Regulations, permits an acquirer who, together with PAC with the acquirer, holds shares or voting rights in a target company entitling them to exercise at least 25% (Twenty Five percent) or more of the voting right in the target company but less than the maximum permissible non-public shareholding, to make a public announcement of an open offer for acquiring shares of the target company.<sup>16</sup> The acquirer is required to make a voluntary open offer for at least such number of shares as would entitle the acquirer to exercise an additional 10% (Ten percent) of the total shares of the target company.<sup>17</sup>

### Trigger of Mandatory Open Offer on Account of the Conversion Transaction

As explained in Question I – Legal and Regulatory Consideration (*How was the takeover structured by the Adani Group*) above, pursuant to the Loan Agreements, VCPL exercised its right to convert 1,990,000 (One Million Nine Hundred and Ninety Thousand) RRPR Warrants, resulting into 1,990,000 (One Million Nine Hundred and Ninety Thousand) equity shares of RRPR. The RRPR Warrants upon conversion into equity shares constituted 99.50% (Ninety Nine point Five Zero percent) of the equity capital of RRPR. RRPR holds 18,813,928 (Eighteen Million Eight Hundred and Thirteen Thousand Nine Hundred and Twenty Eight) equity shares representing 29.18% (Twenty Nine point One Eight percent) of the voting share capital of NDTV.

Since the conversion of RRPR Warrants resulted in indirectly acquiring more than 25% (Twenty Five percent) (i.e. 29.18% (Twenty Nine point One Eight percent) in the present case) of the voting rights in NDTV (being the target company), the same was an indirect acquisition of shares as per Regulation 5 (1) of the SAST. From the offer letter submitted by the Adani Group with SEBI, we understand that this indirect acquisition also met the thresholds prescribed under Regulation 5(2) of the SAST Regulations (*provided above*) resulting in deemed direct acquisition.<sup>18</sup> As per Regulation 5 (2) of the SAST Regulations, for purposes of these regulations all compliance related to direct acquisition was required to be followed, including without limitation, the obligations relating to timing, pricing and other compliance requirements for the open offer, in case of deemed direct acquisition.

Accordingly, the public announcement announcing the Open Offer, under Regulations 3(1), 4 and 5 of the SAST Regulations, was submitted to the stock exchanges, SEBI and was also sent to NDTV, by the Adani Group on August 23, 2022. The Adani Group made an Open Offer to all public shareholders to acquire at least 16,762,530 (Sixteen Million Seven Hundred Sixty Two Thousand Five Hundred and Thirty) equity shares constituting 26% (Twenty Six percent) of the voting share capital of NDTV at the Initial Open Offer Price of INR 294 (INR Two Hundred Ninety Four only) per equity share.<sup>19</sup> Ultimately, the Adani Group acquired 5,330,792 (Five Million Three Hundred Thirty Thousand Seven Hundred and Ninety Two) shares<sup>20</sup> at the New Open Offer Price of INR 342.65 (INR Three Hundred Forty Two and Sixty Five paise only) from the public shareholders.

<sup>16</sup> Regulation 6(1) of the SAST Regulations.

<sup>17</sup> Regulation 7(2) of the SAST Regulations.

<sup>18</sup> Para 3.1.4 (d) at Page 16 of LOF available at: <https://www.bseindia.com/xml-data/corpfiling/AttachLive/052309B7-5C8F-4333-9270-6AC53C1E07E5-200645.pdf>.

<sup>19</sup> Para 3.2.3 at Page 24 of LOF available at: <https://www.bseindia.com/xml-data/corpfiling/AttachLive/052309B7-5C8F-4333-9270-6AC53C1E07E5-200645.pdf>.

<sup>20</sup> <https://www.livemint.com/market/stock-market-news/adani-group-s-vcpl-acquires-8-27-stake-in-ndtv-through-open-offer-11671508949144.html>.

## 9. Legal and Regulatory Considerations

### III. How was the Offer Price Determined and Justified?

The equity shares of NDTV are listed on BSE and NSE. The traded turnover in the equity shares of NDTV on BSE and NSE during the twelve calendar months preceding the calendar month in which the public announcement was made, i.e. period starting from August 01, 2021 to July 31, 2022 (“**Twelve Month Period**”), is given below:<sup>21</sup>

Stock Exchange	Traded turnover of equity shares of NDTV during the Twelve Month Period (“A”)	Total number of equity shares of NDTV during the Twelve Month Period (“B”)	Traded turnover as % of total number of equity shares of NDTV (A/B)
BSE	13,706,809	64,471,267	21.26%
NSE	103,435,994	64,471,267	160.44%

Based on the above, it is to be noted that the equity shares of NDTV were ‘frequently traded’ in accordance with the definition under the Regulation 2(1)(j) of SAST Regulations.<sup>22</sup>

Regulation 8 of the SAST Regulations deals with the aspect of determination of offer price and provides various criteria for such determination.

In the present case the determination of offer price was done pursuant to Regulation 8(2) read with Regulation 8(5) of the SAST Regulations.

Regulation 8 (2) of the SAST Regulations provides that in the case of direct acquisition of shares or voting rights in, or control over the target company, and indirect acquisition of shares or voting rights in, or control over the target company where the parameters referred to in sub-regulation (2) of Regulation 5 of the SAST Regulations are met, the offer price shall be the highest of —

- a) the highest negotiated price per share of the target company for any acquisition under the agreement attracting the obligation to make a public announcement of an open offer;
- b) the volume-weighted average price paid or payable for acquisitions, whether by the acquirer or by any PAC with the acquirer, during the 52 (Fifty-Two) weeks immediately preceding the date of the public announcement;
- c) the highest price paid or payable for any acquisition, whether by the acquirer or by any PAC with the acquirer, during the 26 (Twenty-Six) weeks immediately preceding the date of the public announcement;
- d) the volume-weighted average market price of such shares for a period of 60 (sixty) trading days immediately preceding the date of the public announcement as traded on the stock exchange where the maximum volume of trading in the shares of the target company are recorded during such period, provided such shares are frequently traded;

21 Para 6.1.2 at Page 56 of the LOF available at: <https://www.bseindia.com/xml-data/corpfiling/AttachLive/052309B7-5C8F-4333-9270-6AC53C1E07E5-200645.pdf>.

22 Per Regulation 2 (1) (j) of the SAST Regulations: “frequently traded shares” means shares of a target company, in which the traded turnover on any stock exchange during the twelve calendar months preceding the calendar month in which the public announcement is required to be made under these regulations, is at least ten per cent of the total number of shares of such class of the target company: Provided that where the share capital of a particular class of shares of the target company is not identical throughout such period, the weighted average number of total shares of such class of the target company shall represent the total number of shares”.

## 9. Legal and Regulatory Considerations

- e) where the shares are not frequently traded, the price determined by the acquirer and the manager to the open offer taking into account valuation parameters including book value, comparable trading multiples, and such other parameters as are customary for valuation of shares of such companies; and
- f) the per share value computed under sub-regulation (5) of Regulation 8 of SAST Regulations, if applicable.

In the present case, the price per equity share as per each of the above points is provided below.<sup>23</sup>

S/N	Particulars	Price (INR per equity share)
a)	the highest negotiated price per share of the target company for any acquisition under the agreement attracting the obligation to make a public announcement of an open offer	Not applicable <sup>24</sup>
b)	the volume-weighted average price paid or payable for acquisitions, whether by the acquirer or by any PAC with the acquirer, during the 52 (Fifty Two) weeks immediately preceding the date of the public announcement	Not applicable
c)	the highest price paid or payable for any acquisition, whether by the acquirer or by any PAC with the acquirer, during the 26 (Twenty Six) weeks immediately preceding the date of the public announcement	Not applicable
d)	the volume-weighted average market price of such shares for a period of 60 (sixty) trading days immediately preceding the date of the public announcement as traded on the NSE, being the stock exchange where the maximum volume of trading in the shares of the target company are recorded during such period, and such shares are frequently traded	INR 247.77
e)	where the shares are not frequently traded, the price determined by the acquirer and the manager to the open offer taking into account valuation parameters including, book value, comparable trading multiples, and such other parameters as are customary for valuation of shares of such companies	Not applicable <sup>25</sup>
f)	the per share value computed under Regulation 8 (5), if applicable	INR 218.70

The price disclosed as per point (d) above is INR 247.77 (INR Two Hundred and Forty Seven point Seventy Seven Paise only). As per point (f), the per equity share value computed under Regulation 8(5) is INR 218.70 (INR Two Hundred and Eighteen point Seventy Paise only).<sup>26</sup>

The offer price per equity share of NDTV of INR 294 (INR Two Hundred and Ninety Four only) is higher than the price determined in compliance with Regulation 8(2) read with 8(5) of the SAST Regulations and therefore is in compliance with Regulation 8(1) of the SAST Regulations.

23 Para 6.1.5 on Page 57 and 58 of the LOF available at: <https://www.bseindia.com/xml-data/corpfiling/AttachLive/052309B7-5C8F-4333-9270-6AC53C1E07E5-200645.pdf>.

24 Not applicable as this is an indirect acquisition.

25 Not applicable as the equity shares of NDTV are frequently traded.

26 As per Regulation 8(5) of the SAST Regulations, if any of the parameters set out therein are met, disclosure is required of the per share value of the target company taken into account for the acquisition, along with a detailed description of the methodology adopted for such computation.

## 9. Legal and Regulatory Considerations

Further in the present case, the Founders sold 13.44% (Thirteen point Four Four percent) and 13.82% (Thirteen point Eight Two percent) of their respective shareholding in NDTV to RRPR on December 30, 2022 at a per share price of INR 342.65 (INR Three Hundred and Forty Two point Sixty Five Paise only).

As per Regulation 8(10) of the SAST Regulations, if an acquirer or PAC with the acquirer, acquires shares of a target company during the period of 26 (Twenty Six) weeks after the tendering period at a price that is higher than the offer price, then the acquirer and PAC are required to pay the difference between the highest acquisition price and the offer price to all the shareholders whose shares were accepted in the open offer within a period of 60 (Sixty) days from the date of such acquisition. Consequently, Adani Group has provided a public notice that they will be making an additional payment of INR 48.65 (INR Forty Eight point Sixty Five Paise only) per equity share to such public shareholders of NDTV whose shares were accepted in the Open Offer. The said payment was due to be made by February 28, 2023.<sup>27</sup>

## IV. What are Share Warrants?

A share warrant is a derivative security that gives a holder the right to purchase securities from an issuer at a specific price within a certain time frame. A share warrant is like a negotiable instrument that entitles the warrant holder to the shares therein specified. The warrant holder can exercise the option to subscribe to equity shares against the share warrants held by the warrant holder. The shares mentioned in the share warrants shall be issued to the warrant holder upon the delivery of the share warrant by the warrant holder and payment of consideration, as per the terms of the share warrant. Share warrants have been used for raising funds for a company and the same is beneficial for investors as it provides an option to the warrant holder to subscribe to the shares of a company in future at a pre-determined price.

The Companies Act, 1956 provided for issuance of share warrants by a public limited company and the procedure for conversion of the same into shares of the issuer company.<sup>28</sup> However, there is no corresponding provision in the Companies Act, 2013 regarding the same expressly. Presently, the ICDR Regulations provide for issuance of share warrants and conditions for issuance thereof by a public listed company.<sup>29</sup>

<sup>27</sup> Public Notice dated January 2, 2023 filed with BSE on January 3, 2023 available at: <https://www.bseindia.com/xml-data/corpfiling/AttachHis/ddbf4445-f782-4dc0-a82c-a04af73c9285.pdf>.

<sup>28</sup> Section 114 and Section 115 of the Companies Act, 1956.

<sup>29</sup> Regulation 13, Chapter II and Regulation 67 Chapter III of SEBI ICDR.

## 9. Legal and Regulatory Considerations

# V. When were the Share Warrants Issued to VCPL and whether Consent from the Founders was Required for Conversion of such Warrants into Equity Shares of RRPR?

### Issuance of Share Warrants

As mentioned in Part B of the Deal Timeline above, VCPL, RRPR and the Founders entered into the Loan Agreements<sup>30</sup> under which VCPL granted a loan of INR 4,038,500,000 (INR Four Billion Thirty Eight Million Five Hundred Thousand only) (approximately USD 48,000,000) to RRPR.<sup>31</sup> Pursuant to the Loan Agreements, VCPL was issued the RRPR Warrants.

### Rights under the Loan Agreements

As mentioned in Part B of the Deal Timeline above, the below were some of the most significant rights granted to VCPL under the Loan Agreements, which became the genesis of the whole transaction. VCPL, at its discretion: (a) had the right to exercise any or all of the RRPR Warrants issued to it; (b) upon the exercise of all the RRPR Warrants the equity shares issued to VCPL would amount to 99.99% (Ninety Nine point Nine Nine percent) of the equity share capital of RRPR upon payment of par value for such equity shares; and (c) had the right to purchase from the Founders all the 10,000 (Ten Thousand) equity shares of RRPR held by them at par value.<sup>32</sup>

### Key Terms of the Share Warrants

Each RRPR Warrant would convert into 1 (One) equity share of RRPR upon the exercise of conversion rights by VCPL and upon payment of the nominal value of such equity shares, i.e. INR 10 (INR Ten only) (“**Conversion Rights**”). VCPL was required to provide a written notice to RRPR stating that VCPL desired to exercise its Conversion Rights. Upon receipt of such notice and the requisite payment of consideration (which was INR 10 (INR Ten only) per RRPR Warrant, in the present scenario), RRPR was required to issue and allot the equity shares of RRPR to VCPL or any person nominated by it within 2 (Two) business days. There was also an option to exercise and convert the RRPR Warrants into equity shares in one or more tranches.

### Exercise of Conversion Rights and Requirement of Consent

As per the terms of the RRPR Warrants,<sup>33</sup> there was no requirement to obtain any consent from either RRPR or the Founders prior to the exercise of the Conversion Rights by VCPL.

The conversion ratio of the RRPR Warrant to the equity shares of RRPR was 1:1, i.e. each RRPR Warrant would be converted into 1 (One) equity share of RRPR upon the exercise of Conversion Rights by VCPL. VCPL exercised its Conversion Rights and issued a notice to RRPR on August 23, 2022 stating that VCPL was exercising its Conversion Rights in respect of 1,990,000 (One Million Nine Hundred and Ninety Thousand) RRPR Warrants,

30 Para 3.1.4 (a), at Page 15, LOF available at: <https://www.bseindia.com/xml-data/corpfiling/AttachLive/052309B7-5C8F-4333-9270-6AC53C1E07E5-200645.pdf>.

31 Para 3.1.4 (j)(i), at Page 21, LOF available at: <https://www.bseindia.com/xml-data/corpfiling/AttachLive/052309B7-5C8F-4333-9270-6AC53C1E07E5-200645.pdf>; Palak Shah, 2009 pact with VCPL leaves Roys no room to prevent Adani's bid to takeover NDTV, The Hindu Business Line, August 25, 2022, available at: <https://www.thehindubusinessline.com/companies/roys-vcpl-2009-pact-leaves-no-room-for-preventing-adanis-takeover-bid/article65809979.ece>; Adani Group to launch open offer for NDTV on Oct 17, Business Today, August 31, 2022, available at: <https://www.businesstoday.in/latest/corporate/story/adani-group-to-launch-open-offer-for-ndtv-on-oct-17-rrpr-vcpl-prannoy-roy-sebi-346011-2022-08-31>.

32 Para 3.1.4 (a), at Page 15, LOF available at: <https://www.bseindia.com/xml-data/corpfiling/AttachLive/052309B7-5C8F-4333-9270-6AC53C1E07E5-200645.pdf>.

33 We have relied on the terms of the Loan Agreements and RRPR Warrants as stated in the LOF, available at: <https://www.bseindia.com/xml-data/corpfiling/AttachLive/052309B7-5C8F-4333-9270-6AC53C1E07E5-200645.pdf>.



## 9. Legal and Regulatory Considerations

which would result into 1,990,000 (One Million Nine Hundred and Ninety Thousand) equity shares of RRPR, for a consideration of INR 19,900,000 (INR Nineteen Million Nine Hundred Thousand only) (approximately USD 240,000) paid in cash. Upon completion of the issuance and allotment of the aforesaid equity shares to VCPL, VCPL would hold 99.50% (Ninety Nine Point Five Zero Percent) of the share capital of RRPR.<sup>34</sup>

RRPR was required to issue and allot the equity shares to VCPL within 2 (Two) business days, which would have been 25<sup>th</sup> August, 2022. However, RRPR, citing an order passed by SEBI and the restrictions placed thereunder, did not complete the issuance of equity shares till November 28, 2022.<sup>35</sup> We discuss the order passed by SEBI in the next question.

## VI. What were the Restrictions under the SEBI Order Passed against the Founders of NDTV with Respect to Dealing in the Securities Market till November 2022?

### Brief Details of the SEBI Order

SEBI received complaints from NDTV alleging that certain entities<sup>36</sup> had violated the provisions of the PIT Regulations, 1992 during the period September 2006 to June 2008. Accordingly, SEBI conducted a detailed investigation in the matters of NDTV, and it was found that the Founders had carried out insider trading in the NDTV scrips and proceedings were initiated against them by SEBI.

SEBI passed the order in the matter of New Delhi Television Limited – 2 Entities (“SEBI Order”),<sup>37</sup> wherein it held that the Founders were in possession of unpublished price sensitive information and used that information to carry out insider trading. Therefore, there was a clear violation of Regulation 3(i) and regulation 4 of the PIT Regulations, 1992 read with section 12A(d) and (e) of the SEBI Act, 1992 by the Founders.<sup>38</sup> Further, SEBI passed the following directions:

*“(a) The Noticees herein, namely, Mr. Prannoy Roy and Mrs. Radhika Roy shall, jointly or severally, disgorge the amount of wrongful gain of ₹16,97,38,335/- as computed in the show cause notice, along with interest at the rate of 6% per annum from April 17, 2008, till the date of actual payment of disgorgement amount along with interest, within 45 days from the date of coming into force of this order; and*

*(b) The Noticees herein, i.e., Mr. Prannoy Roy and Mrs. Radhika Roy shall be restrained from accessing the securities market and further prohibited from buying, selling or otherwise dealing in securities, directly or indirectly, or being associated with the securities market in any manner, whatsoever, for a period of 2 years.”<sup>39</sup>*

34 Para 3.1.4 (d), at Page 16, LOF available at: <https://www.bseindia.com/xml-data/corpfiling/AttachLive/052309B7-5C8F-4333-9270-6AC53C1E07E5-200645.pdf>; Shubham Batra and Nikhil Rampal, ‘As NDTV shares skyrocket after Adani bid, here’s how stock markets are valuing news firms’, available at: <https://theprint.in/economy/as-ndtv-shares-skyrocket-after-adani-bid-heres-how-stock-markets-are-valuing-news-firms/1117427>.

35 Jayshree P. Upadhyay, Adani, NDTV promoters reach out to SEBI over warrant conversion, LiveMint, 30 August 2022, available at: <https://www.livemint.com/companies/news/adani-group-and-ndtv-promoters-approach-sebi-on-warrant-conversion-11661780338910.html>.

36 Mr. Sanjay Dutt and certain other entities, that are Quantum Securities Private Limited and SAL Real Estates Private Limited

37 SEBI order in the matter of New Delhi Television Limited – 2 Entities, WTM/SM/IVD/ID2/9711/2020-21, dated November 27, 2020 available at: [https://www.sebi.gov.in/enforcement/orders/nov-2020/order-in-the-matter-of-new-delhi-television-limited-mr-prannoy-roy-and-mrs-radhika-roy\\_48314.html](https://www.sebi.gov.in/enforcement/orders/nov-2020/order-in-the-matter-of-new-delhi-television-limited-mr-prannoy-roy-and-mrs-radhika-roy_48314.html).

38 Paragraph 109, SEBI Order, available at: [https://www.sebi.gov.in/enforcement/orders/nov-2020/order-in-the-matter-of-new-delhi-television-limited-mr-prannoy-roy-and-mrs-radhika-roy\\_48314.html](https://www.sebi.gov.in/enforcement/orders/nov-2020/order-in-the-matter-of-new-delhi-television-limited-mr-prannoy-roy-and-mrs-radhika-roy_48314.html).

39 Paragraph 111, SEBI Order, available at: [https://www.sebi.gov.in/enforcement/orders/nov-2020/order-in-the-matter-of-new-delhi-television-limited-mr-prannoy-roy-and-mrs-radhika-roy\\_48314.html](https://www.sebi.gov.in/enforcement/orders/nov-2020/order-in-the-matter-of-new-delhi-television-limited-mr-prannoy-roy-and-mrs-radhika-roy_48314.html).

## 9. Legal and Regulatory Considerations

### Restriction under the SEBI Order

Hence, as per the SEBI Order, the Founders could not deal in the securities market till November 26, 2022. However, it is to be understood that the SEBI Order restricted only the Founders and RRPR was not a party to the said SEBI Order. Moreover, if RRPR issued shares to VCPL in accordance with the terms of the Loan Agreements upon conversion of the RRPR Warrants, there was nothing in the SEBI Order which imposed a restriction on the said issuance of the equity shares.

### Interpretation of SEBI Order by the Parties

Upon the receipt of the notice issued by VCPL to RRPR pertaining to its exercise of the Conversion Rights, RRPR responded that it could not issue the equity shares to VCPL as the SEBI Order restricted the Founders from dealing in the securities markets till November 26, 2022. VCPL responded to the reply issued by RRPR, wherein VCPL stated that the SEBI Order restricted only the Founders and RRPR was not a party to the SEBI Order. Further, the issuance of equity shares to VCPL by RRPR pursuant to exercise of Conversion Rights would not result in a violation of the SEBI Order as there was no direct or indirect dealing in any securities by the Founders.<sup>40</sup>

The Adani Group and RRPR, reiterated their respective stances and finally, a letter was issued to SEBI requesting SEBI to clarify whether issuance of equity shares to VCPL by RRPR pursuant to exercise of Conversion Rights would amount to violation of the SEBI Order or not.<sup>41</sup> There was no response from SEBI on the clarification sought by the Adani Group or by RRPR.<sup>42</sup> However, assuming that the SEBI Order restricted RRPR to issue equity shares, even if the same was pursuant to the Conversion Rights of VCPL, the same would have been applicable only till November 26, 2022.

Accordingly, on November 28, 2022, RRPR issued 1,990,000 (One Million Nine Hundred and Ninety Thousand) equity shares of RRPR, constituting 99.50% (Ninety Nine point Five Zero Percent) of its equity share capital to VCPL.<sup>43</sup>

---

40 Disclosure Letter dated August 26, 2022, filed by Adani Enterprises Limited with BSE, available at: <https://www.bseindia.com/xml-data/corpfiling/AttachHis/ae1f92e7-8c6e-4deb-815f-1ef1166be235.pdf>.

41 Disclosure Letter dated August 29, 2022, filed by Adani Enterprises Limited with BSE, available at <https://www.bseindia.com/xml-data/corpfiling/AttachHis/2423d9dd-99b8-4d79-9a55-35aa8f9bbec7.pdf>.

42 Disclosure Letter dated November 28, 2022, filed by NDTV with BSE, available at: <https://www.bseindia.com/xml-data/corpfiling/AttachHis/76b5963b-91f3-4ef0-89d2-f70a5684dd1f.pdf>.

43 Disclosure Letter dated November 28, 2022, filed by NDTV with BSE, available at: <https://www.bseindia.com/xml-data/corpfiling/AttachHis/76b5963b-91f3-4ef0-89d2-f70a5684dd1f.pdf>.



# Tax Considerations

## I. What were the Tax Implications in the Hands of VCPL on Conversion of the RRPR Warrants?

As mentioned above, VCPL exercised its Conversion Rights and issued a notice to RRPR on August 23, 2022, stating that VCPL was exercising its Conversion Rights in respect of 1,990,000 (One Million Nine Hundred Ninety Thousand) RRPR Warrants, at the nominal value of such equity shares, i.e. INR 10 (INR Ten only) aggregating to a total of 1,990,000 (One Million Nine Hundred Ninety Thousand) equity shares of RRPR, for the total consideration of INR 19,900,000 (INR Nineteen Million Nine Hundred Thousand only) (approximately USD 240,000) paid in cash.

Section 2(14) of the IT Act defines 'capital asset' as under:

*“(a) property of any kind held by an assessee, whether or not connected with his business or profession;*

-----

*but does not include —*

*any stock-in-trade [other than the securities referred to in sub-clause (b)], consumable stores or raw materials held for the purposes of his business or profession”*

Section 2(47) of the IT Act defines the term 'transfer' in relation to capital asset as:

*“transfer”, in relation to a capital asset, includes, —*

*(i) the sale, exchange or relinquishment of the asset; or*

*(ii) the extinguishment of any rights therein; or*

-----”

The IT Act does not provide for any specific exemption from tax upon exercise of the warrants and conversion into shares. Accordingly, considering that RRPR Warrants are held as a 'capital asset' in the books of VCPL, the conversion of the RRPR Warrants into equity shares of RRPR shall be considered a 'transfer' and subject to tax as per the provisions of Section 48 of the IT Act.

## 10. Tax Considerations

Section 50CA of the IT Act provides that where the sales consideration on transfer of unlisted shares is less than their fair market value (“FMV”), computed as per Rule 11UA<sup>1</sup> of the Income-tax Rules, 1962 (“ITR”), the sales consideration is deemed to be the FMV in the hands of the transferor.

Accordingly, the conversion of RRPR Warrants shall be taxable in the hands of VCPL. As per the IT Act, the general rule is that short-term capital gains (“STCG”)<sup>2</sup> arise from the transfer of a capital asset which is held for less than 3 (Three) years, while long-term capital gains (“LTCG”)<sup>3</sup> arise if the capital asset is held for more than 3 (Three) years. Since the RRPR Warrants have been held by VCPL for over 3 (Three) years, the capital gains shall be long term in nature.

The capital gains shall be computed as the difference between the full value of consideration, being the FMV and the price paid by VCPL for the conversion of the RRPR Warrants into equity shares of RRPR.

Please refer to our research paper titled ‘*Tax Issues in M&A Transactions*’ available [here](#) for a detailed analysis on the computation of capital gains.

Separately, in case a company (other than a company in which the public are substantially interested), receives, in any previous year, from any person being a resident, any consideration for issue of shares that exceeds the face value of such shares in a manner computed as per the relevant ITRs, the aggregate consideration received for such shares as exceeds the FMV of the shares should be taxable in the hands of the issuing company.<sup>4</sup>

## II. Was a Consent from the Tax Authorities Required for the Conversion of the RRPR Warrants?

RRPR, which owned 29.18% (Twenty Nine point One Eight percent) equity interest in NDTV, had intimated VCPL on August 31, 2022, that the equity shares of NDTV held by RRPR were provisionally attached by the tax authorities in the year 2017 with a notification in 2018 that such attachment shall remain in place until the completion of reassessment proceedings.<sup>5</sup>

In light of the above, RRPR contended that the operation of these order(s) of attachment would require an approval and/or clarification from the tax authorities prior to the conversion of the RRPR Warrants.

As per Section 281B of the IT Act, if during the pendency of any proceeding for the assessment of any income or for the assessment or reassessment of any income which has escaped assessment, an assessing officer is of the opinion that for the purpose of protecting the interests of the revenue it is necessary so to do, he may, with the previous approval from the Principal Chief Commissioner / Chief Commissioner, Principal Commissioner or Commissioner, Principal Director General or Director General or Principal Director or Director, by order in writing, attach provisionally any property belonging to the assessee in the manner provided therein.

Pursuant thereto, VCPL wrote a letter to the income tax authority on September 7, 2022 seeking clarifications on the aforesaid provisional attachment.

1 Rule 11UA prescribes primarily the net book value, where the value of immovable property is fair valued, and value of investment is computed as per Rule 11UA.

2 Section 2(42A) of the IT Act.

3 Section 2(29AA) of the IT Act.

4 Section 56(2)(viib) of the IT Act.

5 Disclosure under Regulation 30 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 dated August 31, 2022 available at: [https://archives.nseindia.com/corporate/NDTV\\_31082022222527\\_Disclosure31082022.pdf](https://archives.nseindia.com/corporate/NDTV_31082022222527_Disclosure31082022.pdf).

## 10. Tax Considerations

In response to the clarification sought by VCPL, the tax authority *vide* their letter dated September 7, 2022 clarified that:

*“the prohibition under the above-mentioned orders u/s 281B during the period of their operation is on M/s. RRPR Holding Private Limited for selling or transfer of its shareholding in M/s. New Delhi Television Limited and from creating/causing any charge thereon only, irrespective of the shareholding pattern of M/s. RRPR Holding Private Limited and who exercises control thereon and not on the issuance of shares of M/s. RRPR Holding Private Limited.”<sup>6</sup>*

Accordingly, a consent from the tax authorities under Section 281B of the IT Act was not required for the conversion of the RRPR Warrants into equity shares of RRPR.

### III. What were the Tax Implications for the Public Shareholders of NDTV who had Tendered Shares Pursuant to the Open Offer?

From an Indian tax perspective, the gains arising from the transfer of Indian securities could be treated either as “capital gains” or as “business income”, depending upon whether such Indian securities are held as a capital asset or trading asset (i.e. stock-in-trade). Where the shares are held as capital assets, profits and gains arising from the transfer of the shares will be chargeable to tax under the head ‘capital gain’ according to section 45 of the IT Act.

As per the IT Act, the rate of tax on capital gain in India would depend on: (i) whether the capital gains are LTCG or STCG; (ii) whether the target company is a public listed company, public unlisted company or a private company; (iii) whether the transaction has taken place on the floor of a recognized stock exchange or by way of a private arrangement; and (iv) whether the seller is a resident or a non-resident for tax purposes.

As per Section 90(2) of the IT Act, in case the Central Government has entered into a Double Taxation Avoidance Agreement (“DTAA”) with the Government of any other country or specified territory outside India, as the case may be, for granting relief of tax or avoidance of double taxation, then, in relation to a non-resident to whom the DTAA applies, the provisions of the DTAA or the ITA, whichever shall be more beneficial, shall apply to such non-resident.

As per the IT Act, gains arising on transfer of listed shares held for more than 12 (Twelve) months should be classified as LTCG; in any other case, such gains would be classified as STCG. Accordingly, the gains in the hands of the public shareholders of NDTV shall be considered in the nature of LTCG if the period of holding of such shares is more than 12 (Twelve) months, else it shall be considered as STCG.

In light of the aforesaid and assuming that the shares of NDTV held by the public shareholders that tender such shares in the Open Offer, qualify as a ‘capital asset’ under the IT Act, the gains arising upon transfer of such shares would attract capital gains tax liability.

<sup>6</sup> Disclosure under Regulation 30 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 dated September 9, 2022 available at: [https://archives.nseindia.com/corporate/NDTV\\_09092022215824\\_Disclosure09092022.pdf](https://archives.nseindia.com/corporate/NDTV_09092022215824_Disclosure09092022.pdf).

## 10. Tax Considerations

The table below sets out the rates at which capital gains are taxable under the IT Act for sale of listed equity shares held by the public shareholders of NDTV.<sup>7</sup>

Particulars	STCG	LTCG	
		Resident	Non-resident
Sale of listed equity shares on the floor of the exchange (Securities Transaction Tax (“STT”) paid)	15% <sup>8</sup>	10% <sup>9</sup> without indexation or foreign exchange fluctuation benefit	10% without foreign exchange fluctuation benefit <sup>10</sup>
Sale of listed equity shares other than as mentioned above	Rate of tax generally applicable to taxpayer: <ul style="list-style-type: none"> <li>▪ For Individuals, as per prescribed slab rates</li> <li>▪ For Domestic Companies, 15% to 30%, as applicable</li> <li>▪ For Foreign Companies, 40%</li> </ul>	20% with indexation benefit; or 10% without indexation benefit, whichever is more beneficial <sup>11</sup>	10% without indexation benefit <sup>12</sup>

Section 115AD of the IT Act provides special rates for Foreign Portfolio Investors (“FPIs”), in respect of capital gains arising to FPIs from transfer of securities. While the rate of tax for LTCG remains the same, under Section 115AD, STCG is taxable at 15% (Fifteen percent) for FPIs from sale of listed equity shares on the floor of the exchange where STT is paid.

STT: If the sale of shares takes place on the floor of a recognized stock exchange in India, STT is levied on the turnover from share sale. In the case of intraday sales, STT at the rate of 0.025% (Zero point Zero Two Five percent) is payable by the seller, while in the case of delivery-based sales, STT at the rate of 0.10% (Point One Zero percent) is payable by the seller.

### Profits and Gains from Business or Profession

Historically, the issue of characterization of gains (whether taxable as business income or capital gains) has been a subject matter of litigation with the tax authorities. There have been judicial pronouncements on whether gains from transactions in securities should be taxed as “business profits” or as “capital gains”. However, these pronouncements, while laying down certain guiding principles have largely been driven by the facts and circumstances of each case.

<sup>7</sup> Surcharge and a health and education cess at 4% (Four percent) on the aggregate amount of tax and surcharge applies.

<sup>8</sup> Section 111A of the IT Act.

<sup>9</sup> Section 112A of the IT Act. LTCG arising from transfer of listed equity shares in a company on or after April 1, 2018 and where such transfers are liable to STT on acquisition and transfer, are taxable at 10% (Ten percent), where such capital gains exceed INR 100,000 (Indian Rupees Hundred Thousand only). Taxpayers have been granted the benefit of step up of COA based on fair value of listed equity shares as on January 31, 2018 as per Section 55 of the IT Act. Further, CBDT has notified certain transactions of acquisition of equity shares (like initial public offer, offer for sale, merger, shares allotted to qualified institutional buyers, bonus issue etc.) on which the condition of payment of STT shall not apply and accordingly, LTCG on transfer of such equity shares shall be taxable at 10% (Ten percent).

<sup>10</sup> Section 112A of the IT Act.

<sup>11</sup> Section 112 of the IT Act.

<sup>12</sup> Section 112 of the IT Act.

## 10. Tax Considerations

In case the shares of NDTV are held by the public shareholders that tender such shares in the Open Offer as ‘stock-in trade’, the gains arising upon transfer of such shares would attract be chargeable to tax under the head “Profits and Gains from Business or Profession” as per Section 28 of the IT Act.

CBDT has *vide* Instruction No. 1827, dated August 31, 1989, Circular No.4 of 2007 dated June 15, 2007 and Circular No. 6/2016 dated February 29, 2016, set out principles and guidelines for the determination of the character of a particular investment in shares or other securities i.e. whether the same is in the nature of a capital asset or stock-in-trade.

*Accordingly, the taxability of any gains from the sale of shares of NDTV tendered by the public shareholders in their hands shall be subject to taxes under the IT Act as either ‘Income from Capital Gains’ or ‘Income from Business or Profession’ based on the aforesaid principles and at the applicable rates.*

## Epilogue

The attempts by NDTV and its Founders to delay the takeover, through objections such as requirement of prior approval by SEBI and the IT department, as a strategy to buy time in order to arrange appropriate funds to repay VCPL, did not work out in favour of the Founders. However, considering that the news giant had not been able to repay its financial obligations since 2007, the chances that the Founders could have prevented this Deal were always slim. The Adani group's plan to expand its reach in the media sector has materialized thereby competing with the Ambani group in this sector as well, where the latter has a sizeable presence through Network18.

NDTV currently operates three national news channels; NDTV 24x7, NDTV India and NDTV Profit, and also has a strong online presence. It remains to be seen how the transfer of control of a news giant from the journalists- founders to a conglomerate will shape the entertainment and media industry in India. The exiting Founders have stated that they are hopeful that Mr. Adani will preserve the values of the NDTV brand and expand upon them with all the responsibility required of a leader of an organization of this nature.<sup>1</sup>

We have always taken initiatives to provide updates and analysis on the latest legal developments. M&A Lab is one such initiative which provides insight and analysis of the latest M&A deals. We believe in knowledge sharing and hence would appreciate any feedback or comment. Feel free to direct your comments/views on this Lab to [concierge@nishithdesai.com](mailto:concierge@nishithdesai.com).

---

1 NDTV takeover: Prannoy, Radhika Roy to sell most of their stake to Adani Group, December 24, 2022 available at: <https://indianexpress.com/article/business/ndtv-founders-transfer-stake-adani-8341107>.



## About NDA

At Nishith Desai Associates, we have earned the reputation of being Asia's most Innovative Law Firm—and the go-to specialists for companies around the world, looking to conduct businesses in India and for Indian companies considering business expansion abroad. In fact, we have conceptualized and created a state-of-the-art Blue Sky Thinking and Research Campus, Imaginarium Aligunjan, an international institution dedicated to designing a premeditated future with an embedded strategic foresight capability.

We are a research and strategy driven international firm with offices in Mumbai, Palo Alto (Silicon Valley), Bangalore, Singapore, New Delhi, Munich, and New York. Our team comprises of specialists who provide strategic advice on legal, regulatory, and tax related matters in an integrated manner basis key insights carefully culled from the allied industries.

As an active participant in shaping India's regulatory environment, we at NDA, have the expertise and more importantly—the VISION—to navigate its complexities. Our ongoing endeavors in conducting and facilitating original research in emerging areas of law has helped us develop unparalleled proficiency to anticipate legal obstacles, mitigate potential risks and identify new opportunities for our clients on a global scale. Simply put, for conglomerates looking to conduct business in the subcontinent, NDA takes the uncertainty out of new frontiers.

As a firm of doyens, we pride ourselves in working with select clients within select verticals on complex matters. Our forte lies in providing innovative and strategic advice in futuristic areas of law such as those relating to Blockchain and virtual currencies, Internet of Things (IOT), Aviation, Artificial Intelligence, Privatization of Outer Space, Drones, Robotics, Virtual Reality, Ed-Tech, Med-Tech and Medical Devices and Nanotechnology with our key clientele comprising of marquee Fortune 500 corporations.

The firm has been consistently ranked as one of the Most Innovative Law Firms, across the globe. In fact, NDA has been the proud recipient of the Financial Times–RSG award 4 times in a row, (2014-2017) as the Most Innovative Indian Law Firm.

We are a trust based, non-hierarchical, democratic organization that leverages research and knowledge to deliver extraordinary value to our clients. Datum, our unique employer proposition has been developed into a global case study, aptly titled 'Management by Trust in a Democratic Enterprise,' published by John Wiley & Sons, USA.



## Research@NDA

Research is the DNA of NDA. In early 1980s, our firm emerged from an extensive, and then pioneering, research by Nishith M. Desai on the taxation of cross-border transactions. The research book written by him provided the foundation for our international tax practice. Since then, we have relied upon research to be the cornerstone of our practice development. Today, research is fully ingrained in the firm's culture.

Over the years, we have produced some outstanding research papers, reports and articles. Almost on a daily basis, we analyze and offer our perspective on latest legal developments through our "Hotlines". These Hotlines provide immediate awareness and quick reference, and have been eagerly received. We also provide expanded commentary on issues through detailed articles for publication in newspapers and periodicals for dissemination to wider audience. Our NDA Labs dissect and analyze a published, distinctive legal transaction using multiple lenses and offer various perspectives, including some even overlooked by the executors of the transaction. We regularly write extensive research papers and disseminate them through our website. Our ThinkTank discourses on Taxation of eCommerce, Arbitration, and Direct Tax Code have been widely acknowledged.

As we continue to grow through our research-based approach, we now have established an exclusive four-acre, state-of-the-art research center, just a 45-minute ferry ride from Mumbai but in the middle of verdant hills of reclusive Alibaug-Raigadh district. Imaginarium AliGunjan is a platform for creative thinking; an apolitical eco-system that connects multi-disciplinary threads of ideas, innovation and imagination. Designed to inspire 'blue sky' thinking, research, exploration and synthesis, reflections and communication, it aims to bring in wholeness—that leads to answers to the biggest challenges of our time and beyond. It seeks to be a bridge that connects the futuristic advancements of diverse disciplines. It offers a space, both virtually and literally, for integration and synthesis of knowhow and innovation from various streams and serves as a dais to internationally renowned professionals to share their expertise and experience with our associates and select clients.

We would love to hear from you about any suggestions you may have on our research publications. Please feel free to contact us at [research@nishithdesai.com](mailto:research@nishithdesai.com).

## Recent Research Papers

Extensive knowledge gained through our original research is a source of our expertise.



January 2023

### Doing Business in India

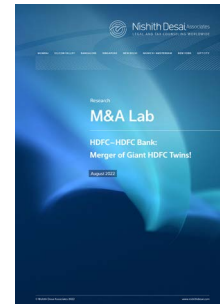
The Guide for US Businesses and Organizations Entering and Expanding into India



September 2022

### Ahead of the Game

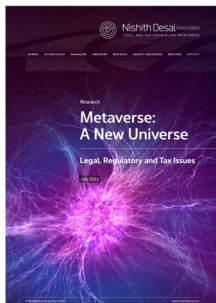
Legal, Regulatory and Tax Issues in India's Gaming Industry



August 2022

### M&A Lab

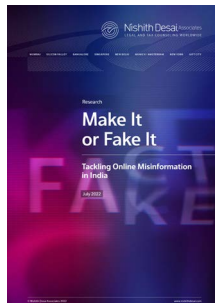
HDFC–HDFC Bank:  
Merger of Giant HDFC Twins!



July 2022

### Metaverse: A New Universe

Legal, Regulatory and Tax Issues



July 2022

### Make It or Fake It

Tackling Online Misinformation in India



April 2022

### Private Equity and Private Debt Investments in India

Regulatory, Legal and Tax Overview

For more research papers [click here](#).



**Nishith Desai** Associates  
LEGAL AND TAX COUNSELING WORLDWIDE

**MUMBAI**

93 B, Mittal Court, Nariman Point  
Mumbai 400 021, India

Tel +91 22 6669 5000

**SILICON VALLEY**

220 S California Ave., Suite 201  
Palo Alto, California 94306, USA

Tel +1 650 325 7100

**BANGALORE**

Prestige Loka, G01, 7/1 Brunton Rd  
Bangalore 560 025, India

Tel +91 80 6693 5000

**SINGAPORE**

Level 24, CapitaGreen  
138 Market St  
Singapore 048 946

Tel +65 6550 9855

**NEW DELHI**

13-H, Hansalaya Building, 15  
Barakhamba Road, Connaught Place  
New Delhi 110 001, India

Tel +91 11 4906 5000

**MUNICH / AMSTERDAM**

Maximilianstraße 13  
80539 Munich, Germany

Tel +49 89 203 006 268

**NEW YORK**

1185 6th Avenue, Suite 326  
New York, NY 10036, USA

Tel +1 212 464 7050

**GIFT CITY**

408, 4th Floor, Pragya Towers  
GIFT City, Gandhinagar  
Gujarat 382 355, India

**M&A Lab**

Breaking News: Adani's Hostile Takeover of NDTV