

## Coming up next: ZEE Entertainment and Dish TV

***Large investors of both ZEE Entertainment Limited and Dish TV have sought the removal of directors and the appointment of a fresh slate. The next four weeks will determine whether there will be a smooth transition to a new board***



*Picture source: Company websites*

Yes Bank Limited, which presently holds 25.63% stake in Dish TV Limited (DishTV), has sought the removal of five directors in the company - Ms. Rashmi Aggarwal, Bhagwan Das Narang, Shankar Aggarwal and Ashok Mathai Kurien, besides the Managing Director, Jawahar Lal Goel – and the appointment of seven directors (including five independent directors). In its [notice](#) addressed to the company, the bank has said that the current board of directors of company had approved a rights issue process despite the bank's objections solely to dilute its shareholding and to prejudice the interests of the bank, which is the single largest shareholder of the company. While one may argue that a rights issue is in the interest of all shareholders equally, Dish TV's rights issue begs a different question – with high operating profits and practically no debt on the books, why does the company need to raise equity? Yes Bank alleged that the board was not being fair and supplanting 6% shareholders against the wishes of 45% equity holders.

Ashok Kurien is coming up for reappointment at DishTV's September 2021 AGM. IiAS has recommended voting against his reappointment. Independent of Yes Bank's assertions, we believe as a member of the audit committee since 2018, he is accountable for the lapses in internal financial controls and other audit qualifications. That he has lost the confidence of a large shareholder only reinforces our position.

In a similar instance, Zee Entertainment Enterprises Limited's (ZEEL) foreign portfolio investors Invesco Developing Markets Fund and OFI Global China Fund IIC who collectively hold 17.88% stake in the company, [demanded](#) the removal of non-executive directors Ashok Kurien and Manish Chokhani and Punit Goenka from the board, and proposed the appointment of six new independent directors.

Even as shareholders sought their removal, Manish Chokhani and Ashok Kurien were up for reappointment at ZEEL's September 2021 AGM – and liAS had recommended voting against their reappointments. liAS had raised concerns on their failures as audit committee members in FY20, when the auditors qualified the financial statements over related party transactions and raised concerns over the adequacy of the company's internal financial control. Both directors, as members of the Nomination and Remuneration Committee, failed to address the governance issues raised by independent directors who eventually resigned from directorships. Disclosures show that Punit Goenka's remuneration increased by 46% while employees got no raises during the year. That the shareholder approval was ignored and Punit Goenka was paid more than what was approved by shareholders added to the investors cup of woes.

#### **Exhibit 1: Resignation of ZEEL directors**

Ashok Kurien and Mannish Chokhani [resigned from the board](#) on 13 September, 2021. The sequence of events, based on ZEEL's disclosures to the exchanges is:

- Invesco letter to the company is dated 11 September 2021, asking for removal of three directors and the appointment of six new directors
- Company notice to the Stock exchange states that they received this letter on 12 September 2021
- As per the exchange, the notice to the exchanges regarding the resignations was sent at 21:16:37 hrs and the notice regarding the letter from Invesco was filed at 21:58:30 hrs (excluding time taken to disseminate both notices was 00:00:09)
- The notices were filed after the close of e-voting at 17:00 hrs on 13 September 2021

This delay in filing of the notice and whether the resignations happened after the company was able to ascertain the shareholder vote, needs to be examined by the regulators.

Source: liAS Research

liAS had recommended voting against Punit Goenka's reappointment as Managing Director last year, at the 2020 AGM. We contended that he needed to be held accountable for weak oversight over the business, concerns over related party transactions, and other governance related issues. Our view then was that the company must break away from the promoters and the board must professionalize the management. Although shareholders supported his reappointment then – perhaps with a view to giving him a second chance – the governance risks played out in FY21.

What happens next? The Companies Act 2013 has laid out the process for investors calling an EGM. Within 45 days, the company is required to hold an EGM and if they don't, then the investors have three months to organize the EGM for which the company will have to bear expenses.

The removal of directors requires a simple majority to pass (more than 50% of the votes cast). Promoters can vote their shares, but this will have limited impact in the case of DishTV and ZEEL since promoters own small stakes – 5.93% in DishTV and 3.99% in ZEEL.

**Exhibit 2: Extraordinary General Meeting by requisition**

<b>Regulations under Company Law</b>	<ul style="list-style-type: none"> <li>○ Section 100 of the Companies Act, 2013</li> <li>○ Rule 17 of the Companies (Management and Administration) Rules, 2014</li> </ul>
<b>Authority to minority shareholders</b>	<ul style="list-style-type: none"> <li>○ Shareholders requisitioning an EGM must hold at least 10% of the company's equity</li> </ul>
<b>About the EGM requisition</b>	<ul style="list-style-type: none"> <li>○ The members should provide the requisition to the company to call an EGM in writing or through electronic mode.</li> <li>○ The notice should specify the place, date, day and hour of the meeting and contain the business to be transacted at the meeting. It is not mandatory to provide an explanatory statement for the proposed resolutions. Further, the requisitionists may disclose the reasons for proposing the resolutions. The meeting should be convened at the registered office or in the same city or town where registered office is situated on a working day.</li> <li>○ The notice should be signed by all the requisitionists or by a requisitionist duly authorised in writing by all other requisitionists and delivered at the registered office of the company.</li> </ul>
<b>EGM Procedure</b>	<ul style="list-style-type: none"> <li>○ If the Board does not, within 21 days from the date of receipt of such requisition, proceed to call an EGM on a day not later than 45 days from the date of receipt of such requisition, the EGM can be called and held by the requisitionists themselves within a period of 3 months from the date of the requisition and reimburse any reasonable expenses from the directors in default for holding the meeting.</li> <li>○ The director who is sought to be removed will be given an opportunity to be heard at the meeting. Additionally, he can also make a representation in writing to the members which should be circulated to all the members (at the director's discretion) and if there is a time constraint, should be orally read out at the meeting.</li> <li>○ A mention should be made in the notice given by shareholders proposing the appointment of new directors. If no special notice was given for appointment of another director in place of the director being removed, this would be treated as a casual vacancy on the board</li> </ul>
<b>Past instances of shareholders calling for an EGM to remove directors</b>	<ul style="list-style-type: none"> <li>○ Fortis Healthcare Limited – EGM held on 22 May 2018</li> <li>○ Tata Group companies – EGMs held in December 2016</li> <li>○ Ricoh India Limited – EGM held on 5 August 2016</li> <li>○ S. Kumars Nationwide Limited – EGM held on 27 April 2015</li> </ul>

Source: iiAS research, [www.iiasadrian.com](http://www.iiasadrian.com)

Appointment of directors, including independent directors, also requires a simple majority to pass. It is only from next year (1 January 2022), that Independent Director appointments will require a special resolution (75% or more of the votes cast) to pass. Procedural delays tilts the odds marginally in favour of the existing management. Any delay from the mandated 25 days, will be the first red flag that the handoff of the baton will not be smooth.

From an investor perspective, the best outcome is that DishTV and ZEEL stories play out like [Fortis](#). But legal hurdles might be an impediment to a similar path. Large holders are pushing for new management and thinking. They expect such change will result in meaningful long-term shareholder wealth creation

**Exhibit 3: Board composition of Dish TV India Limited**

S No	Name	Category	IIAS Classification	Tenure (yrs)	AC	NRC	SRC	CSR	RMC
1	Jawahar Goel (P)(C)	ED	ED	15			M	M	M
2	Anil Dua	ED	ED	2					
3	Ashok Mathai Kurien	NED	NED	15	M	M	C	M	
4	Bhagwan Narang	ID	NED	15	C	C		C	C
5	Rashmi Aggarwal	ID	ID	6	M	M		M	M
6	Shankar Aggarwal	ID	ID	3	M	M	M	M	M

Source: Annual Report, IIAS Research, Stock exchange filings

IIAS classifies independent directors with a tenure in excess of 10 years as non-independent non-executive directors. For more details, please refer to [IIAS Voting Guidelines](#)

ED: Executive Director, ID: Independent Director, NED: Non-executive Non-independent director, (P): Promoter, (C): Chairperson

Committees: AC-Audit, NRC-Nomination & Remuneration, SRC-Stakeholders Relationship, CSR-Corporate Social Responsibility, RMC-Risk Management

  Removal proposed by shareholders

**Exhibit 4: Board composition of Zee Entertainment Enterprises Limited**

S No	Name	Category	IIAS Classification	Tenure (yrs)	AC	NRC	SRC	CSR	RMC
1	Punit Goenka (P)	ED	ED	16	M		M	M	
2	Ashok Kurien (P)*	NED	NED	28		M	C	C	
3	Manish Chokhani**	NED	NED	6		M			C
4	Adesh Kumar Gupta	ID	ID	5	M				M
5	Piyush Pandey	ID	ID	1		C	M	M	
6	R Gopalan (C)	ID	ID	1	M				M
7	Ms. Alicia Yi	ID	ID	1		M			
8	Sasha Mirchandani	ID	ID	<1					M
9	Vivek Mehra	ID	ID	<1	C				

Source: Annual Report, IIAS Research, Stock exchange filings

ED: Executive Director, ID: Independent Director, NED: Non-executive Non-independent director, (P): Promoter, (C): Chairperson

Committees: AC-Audit, NRC-Nomination & Remuneration, SRC-Stakeholders Relationship, CSR-Corporate Social Responsibility, RMC-Risk Management

\* Ashok Kurien [resigned](#) on 13 September 2021| \*\* Manish Chokhani [resigned](#) on 13 September 2021

  Removal proposed by shareholders

### **Disclaimer**

This document has been prepared by Institutional Investor Advisory Services India Limited (liAS). The information contained herein is solely derived from publicly available data, but we do not represent that it is accurate or complete and it should not be relied on as such. liAS shall not be in any way responsible for any loss or damage that may arise to any person from any inadvertent error in the information contained in this report. This document is provided for assistance only and is not intended to be and must not be taken as the basis for any voting or investment decision or construed as legal opinion/advice. The user assumes the entire risk of any use made of this information. Each recipient of this document should make such investigation as it deems necessary to arrive at an independent evaluation of the individual resolutions referred to in this document (including the merits and risks involved). The discussions or views expressed may not be suitable for all investors. The information given in this document is as of the date of this report and there can be no assurance that future results or events will be consistent with this information. This information is subject to change without any prior notice. liAS reserves the right to make modifications and alterations to this statement as may be required from time to time. However, liAS is under no obligation to update or keep the information current. Nevertheless, liAS would be happy to provide any information in response to specific queries. No copyright infringement is intended in the preparation of this document. Neither liAS nor any of its affiliates, group companies, directors, employees, agents or representatives shall be liable to any person for any damages whether direct, indirect, special or consequential including lost revenue or lost profits that may arise from or in connection with the use of this information. The disclosures of interest statements incorporated in this document are provided solely to enhance the transparency and should not be treated as endorsement of the views expressed in the report.

### **Confidentiality**

This information is strictly confidential and is being furnished to you solely for your information. This information should not be reproduced or redistributed or passed on directly or indirectly in any form to any other person or published, copied, in whole or in part, for any purpose. This report is not directed or intended for distribution to, or use by, any person or entity who is a citizen or resident of or located in any locality, state, country or other jurisdiction, where such distribution, publication, availability or use would be contrary to law, regulation or which would subject liAS to any registration or licensing requirements within such jurisdiction. The distribution of this document in certain jurisdictions may be restricted by law, and persons in whose possession this document comes, should inform themselves about and observe, any such restrictions. The information provided in these reports remains, unless otherwise stated, the copyright of liAS. All layout, design, original artwork, concepts and other Intellectual Properties, remains the property and copyright of liAS and may not be used in any form or for any purpose whatsoever by any party without the express written permission of liAS.

### **Analyst Certification**

The research analyst(s) responsible for this report certify/ies that no part of his/her/their compensation was, is or will be, directly or indirectly related to the views expressed in this report. liAS' internal policies and control procedures governing the dealing and trading in securities by employees are available at <https://www.iiasadvisory.com/about>.

### **Conflict Management**

liAS and its research analyst(s) responsible for this report may hold a nominal number of shares in Dish TV India Limited and Zee Entertainment Enterprises Limited (together referred to as the "subject company") as on the date of this report. A list of liAS' shareholding in companies is available at <https://www.iiasadvisory.com/about>. However, liAS, the research analysts and their associates or relatives, do not have actual/beneficial ownership of one per cent. or more securities of the subject company, at the end of the month immediately preceding the date of publication of this report. Further, a list of shareholders of liAS as of the date of this report is available at <https://www.iiasadvisory.com/about>.

### **Other Disclosures**

IiAS is a SEBI registered research entity (proxy advisor registration number: INH000000024) dedicated to providing participants in the Indian market with independent opinions, research and data on corporate governance issues as well as voting recommendations on shareholder resolutions of about 800 listed Indian companies (<https://www.iiasadvisory.com/iias-coverage-list>). Our products and services include voting advisory reports, standardized services under the Indian Corporate Governance Scorecard, and databases ([www.iiasadrian.com](http://www.iiasadrian.com) and [www.iiascompayre.com](http://www.iiascompayre.com)). There are no significant or material orders passed against the company by any of the Regulators or Courts/Tribunals.

The attached article is a general event-based commentary on the subject company. IiAS has previously published its voting recommendations on the subject company.

IiAS confirms that, save as otherwise set out above or disclosed on IiAS' website,

- IiAS, the research analyst(s) responsible for this report, and their associates or relatives, do not have any financial interest in the subject company.
- IiAS, the research analyst(s) responsible for this report and their associates or relatives, do not have any other material conflict of interest in any of the subject company at the time of publication of this report.
- The subject company has subscribed to IiAS' services and IiAS has received remuneration from the subject company in the past twelve months.
- None of the research analyst(s) responsible for this report, and their associates or relatives, have received any compensation from the subject company or any third party in the past 12 months in connection with the provision of services or products (including investment banking or merchant banking or brokerage services or any other products and services), or managed or co-managed public offering of securities of the subject company.
- The research analyst(s) responsible for this report has not served as an officer, director or employee of the subject company in the past twelve months.
- Neither IiAS nor the research analyst(s) responsible for this report have been engaged in market making activity for the subject company.