

TO BE FILLED BY HAND KINDLY FILE ADDL MEMO OF PARTIES

LISTING PROFORMA

Page 1

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IN THE HIGH COURT OF DELHI AT NEW DELHI

Case Type: WP(C) Number: [] OF Year: 2021

IN THE MATTER OF :-

NAME: PRESS TRUST OF INDIA

PLAIN TIF / PETITIONER

Versus

NAME: UNION OF INDIA & ANR

DEFENDANT / RESPONDENT

1 (a) Case Category []

(b) Case Category []

2: Date of Impugned order [] / [] / []

2 (a) Case Type / Number [] OF []

3 Similar Matter Case Type / Number [] OF []

4 Statute Involved: WRIT PETITION UNDER ARTICLE 14, 19(1)(A), 19(1)(B) OF THE CONSTITUTION OF INDIA

Criminal Matters - Code 100 to 105

FIR No. [] - []

FIR Date [] [] []

Police Station []

Service Matters - Code 500 to 505

Department / Authority / Organization etc. []

Motors Accident Claim Matters - Code 600

Insurance Company []

Lawyers Code



**IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRA ORDINARY CIVIL WRIT JURISDICTION
WRIT PETITION (CIVIL) NO. OF 2021**

IN THE MATTER OF:

Press Trust of India

... Petitioner

Versus

Union of India & Anr

.... Respondents

MASTER INDEX

S.NO	PARTICULARS	PAGE NO
Volume-I		
1.	Urgent application	1
2.	Notice of motion	2-3
3.	Court fee of Rs.120/-	4
4.	Memo of parties	5-6
5.	List of dates and synopsis	7-25
6.	Writ Petition praying for the issuance of a writ of Declaration or any other appropriate writ, order or direction Declaring Part III of the Information Technology (Intermediary Guidelines & Digital Media Ethics Code) Rules, 2021 as void and inoperative for being violative Articles 14, 19(1)(a), 19(1)(g) of the Constitution of India alongwith Affidavit	26-61

7.	<u>Annexure P-1:</u> A true copy of the IT Rules, 2021 issued on 25.02.2021.	62-95
	<u>Volume- II</u>	
8.	<u>Annexure P-2:</u> A true copy of the Norms of Journalistic Conduct, 2010.	96-246
9.	<u>Annexure P-3:</u> A true copy of the Programme Code under Cable TV Rules, 1994.	247-265
10.	<u>Annexure P-4:</u> Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009	266-270
11.	<u>Annexure P-5:</u> A true copy of the Order dt. 09.03.2021 passed by this Hon'ble Court in WP (CIVIL) No. 3125/2021.	271-272
12.	<u>Annexure P-6:</u> A true copy of the Order dt. 10.03.2021 (Hon'ble Kerala High Court).	273-275
13.	<u>Annexure P-7</u> A true copy of the Order dated 19.03.2021 passed by this Hon'ble Court in WP (CIVIL) No. 3659/2021.	276-277
14.	<u>Annexure P-8</u> A true copy of the Clarification dated 10.06.2021 issued by the Ministry of Information and Broadcasting (I&B) (Digital Media Division)	278-282

15.	<u>Annexure P-9</u> A True Copy of the Order of Division Bench of Hon'ble High Court of Madras dated 23.06.2021 in WP (CIVIL) No. 13055/2021.	283-285
16.	An Application under section 151 CPC on behalf of the Petitioner for Stay with affidavit.	286-291
17.	An application under section 151 CPC for exemption from filing certified copies of annexures/dim annexures/documents and orders with affidavit.	292-296
18.	An Application under Section 151 CPC on behalf of the Petitioner seeking permission to file Lengthy Synopsis and List of Dates with Affidavit.	297-301
19.	Letter of Authorisation dated 30.06.2021	302
20.	Vakalatnama	303-304
21.	Proof of service – copy of email dated 02.07.2021	305

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Place: New Delhi

Date: 02.07.2021

IN THE HIGH COURT OF DELHI AT NEW DELHI

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**INDEX
VOLUME – I**

S.NO	PARTICULARS	PAGE NO
1.	Urgent application	1
2.	Notice of motion	2-3
3.	Court fee of Rs.120/-	4
4.	Memo of parties	5-6
5.	List of dates and synopsis	7-25
6.	Writ Petition praying for the issuance of a writ of Declaration or any other appropriate writ, order or direction Declaring Part III of the Information Technology (Intermediary Guidelines & Digital Media Ethics Code) Rules, 2021 as void and inoperative for being violative	26-61

	Articles 14, 19(1)(a), 19(1)(g) of the Constitution of India alongwith Affidavit	
7.	<u>Annexure P-1:</u> A true copy of the IT Rules, 2021 issued on 25.02.2021.	62-95

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... Respondents

URGENT APPLICATION

To,
The Registrar
High Court of Delhi
New Delhi

Sir,

Will you kindly treat the accompanying Writ Petition on an urgent basis as per the rules of the Hon'ble Delhi High Court. The grounds of urgency are:

"Urgent directions are sought"

Through

Swarnendu Chatterjee

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Place: New Delhi

Date: 02/02/2021

IN THE HIGH COURT OF DELHI AT NEW DELHI
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WRIT PETITION (CIVIL) NO. OF 2021

IN THE MATTER OF:

Press Trust of India

... Petitioner

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Union of India & Anr.

... Respondents

NOTICE OF MOTION

Sir,

Kindly take notice that the accompanying petition along with urgent application will be listed before the Court on 07.07.2021 at 10:30 A. M. or in the forenoon, or soon thereafter as may be convenient to the Hon'ble Court.

You may kindly make it convenient to appear before the Hon'ble Court on such date in the event you wish to contest the same.

Please take notice accordingly.

Through

Swarnendu Chatterjee


Wasim Beg/Swarnendu Chatterjee

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Advocates for the Petitioner

103, Ashoka Estate, Barakhamba Road ,

Email: 

Mobile No: 

Place: New Delhi

Date: 02/07/2021

To,

Ms.Mohd.Muqem

Respondent No.1 & 2

Email: [REDACTED]

Mob [REDACTED]

Forbes ^{INDIA}

IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRA ORDINARY CIVIL WRIT JURISDICTION
WRIT PETITION (CIVIL) NO. OF 2021

IN THE MATTER OF:

Press Trust of India ... Petitioner
Versus
Union of India & Anr. ... Respondents

Rs. 120/-

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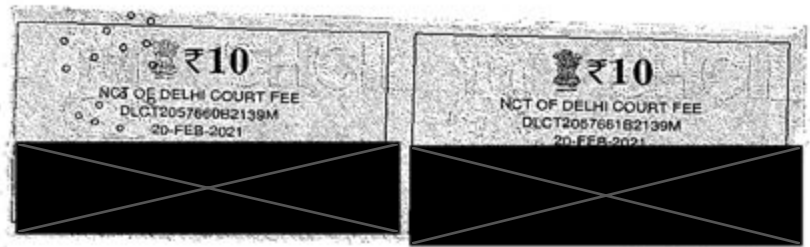
LOCATION : DELHI HIGH COURT

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IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRA ORDINARY CIVIL WRIT JURISDICTION
WRIT PETITION (CIVIL) NO. OF 2021

IN THE MATTER OF:

Press Trust of India

... Petitioner

Versus

Union of India & Anr.

... Respondents

MEMO OF PARTIES

The Press Trust of India Limited
Through its Chief Administrative Officer
(Mr. Madhusudan Mishra)
PTI Building
4, Parliament Street, New Delhi- 110 001

... Petitioner

VERSUS

1. Union of India,
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Place: New Delhi

Dated: 02/07/2021

Forbes

**IN THE HIGH COURT OF DELHI AT NEW DELHI
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SYNOPSIS

The present Petition challenges inter-alia the constitutional validity of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (“IT Rules, 2021” or “Impugned Rules”) under the provisions of Information Technology Act, 2000 (“IT Act”), inasmuch as they purport to apply to ‘publishers of news and current affairs content’ (“digital news portals”) as part of digital media, and consequently regulate these entities under Part III of the Rules (“Impugned Part”) by imposing Government oversight and a ‘Code of Ethics’ which stipulates such vague conditions as ‘good taste’, ‘decency’, prohibition of ‘half-truths’ etc. - matters nowhere within the framework of the IT Act; and draconian consequences for perceived non-compliance, including blocking, modification and deletion of content, compulsory publication of apology, which may be ordered and enforced by the Executive (the Central Government). The Impugned Rules usher in an era of surveillance and fear, thereby resulting in self-censorship, which results in abridgment/violation of Fundamental Rights as enshrined under Part III of the Constitution of India.

Press Trust of India (PTI), (hereinafter referred to as “Petitioner”) is a Company registered under the provisions of the Companies Act, 1956, as repealed by the Companies Act, 2013. The Registered Office and the Head Office of the Petitioner is situated in New Delhi.

It is a premium news agency which provides national and international news content to various newspapers, television and radio networks, websites and others, subscribing to its services. There are two types of users of the content as released by the Petitioner herein; first one being the general public who are not subscribers to the news portal of the Petitioner Company and who can access the content for personal consumption through the website of the Petitioner and the second category being the subscribers of the platform, who are assigned username and password by the Petitioner herein. The only difference between the two categories being that, the paid subscribers can view the entire content and the unpaid viewers or the public at large can view a small sampling of content. The present Petition challenges the IT Rules, 2021 only in so far as they affect digital news portals, and is not with reference to ‘publishers of online curated content’, i.e., OTT media platforms or any other entities sought to be regulated by the Impugned Rules.

Scheme of the IT Rules, 2021

The IT Rules, 2021 are purportedly made under Section 87(1) of the IT Act, more particularly, Section 87(2)(z) & (zg) which enable Rules to be framed on:- “the procedure and safeguards for blocking access by the public under Section 69-A(2)” and “guidelines to be observed by the intermediaries under Section 79(2)”, respectively.

Relevant Definitions in the IT Rules 2021

‘Digital media’ is defined by Rule 2(1)(i) as content carried by either an ‘intermediary’ or a ‘publisher’. Note that the two are mutually exclusive terms. News and analysis of current affairs, which when made available over the internet and computer networks is defined as ‘news and current affairs content’ by Rule 2(1) (m), but when this is published as loosely folded sheets with newsprint it would be ‘newspaper’ defined by Rule 2(1)(n). ‘Newspaper’ is not covered by the IT Rules, 2021, but ‘news and current affairs content’ is. ‘Publisher of news and current affairs content’ is separately defined in Rule 2(1)(t) as follows:

‘publisher of news and current affairs content’ means an online paper, news portal, news aggregator, news agency and such other entity called by whatever name, which is functionally similar to publishers of news and current affairs content but shall not include newspapers, replica e-papers of the newspaper and any individual or user who is not transmitting content in the course of systematic business, professional or commercial activity;

It will be seen that a physical newspaper in the paper format and its exact replica online edition are not covered by the Rules. However, all editions and publications of ‘news and current affairs’ in the digital form (even if done by a media group which brings out physical newspapers) will be covered by the Rules as ‘digital media’ and treated as a digital news portal. Significantly, none of these definitions are found in the IT Act and are all brought in by the IT Rules, 2021 with the express purpose of regulating their content.

Regulation

Subject Entities

The IT Rules, 2021 purport to regulate publishers and intermediaries. The manner of regulation is in two parts: *one*, due diligence norms to be followed by 'intermediaries' (Part II of the Rules); *two*, Code of Ethics to be followed by 'publishers' (Part III of the Rules i.e., the Impugned Part).

PART II OF IT RULES 2021:

That the Petitioner most humbly submits that, Part II of the IT Rules are antithetical to fundamental rights. Through Part II, the Respondents have vested private intermediaries with excessive power in shaping the disclosure of free speech in the country. Rule 3(2) (b) and Rule 4(2) will lead to self-censorship on two levels. While at the first level, an individual will constantly remain in fear of facing consequences and thereby not engage in any content that may be close to the prohibited line (while being legal), at the second level, the intermediaries will also be trigger happy to pull down content while keeping a low threshold for any complaints received. Thus, this will lead to self-censorship without the Respondents having to exercise and explicit power to curb freedom of speech. Nonetheless, even such self-censorship on account of the Respondents' actions is violative of the freedom of speech and hence the Constitution of India.

That, under Rule 3(1)(d), no opportunity has been provided to a user whose speech is censored, to be notified of such takedown or even to be heard against such content being taken down. This results in blatant violation of basic principles of natural justice, i.e., audi alteram partem. Further, Rule 7 threatens the intermediaries to comply with Section 79(1)

and the Rules, failing which they shall be liable to be prosecuted and punished under any law including the Indian Penal Code. These Rules together will also have the effect of the intermediaries being over-compliant and taking down content which is found potentially infringing the IT Rules 2021.

Thereafter, on a close scrutiny, Rule 5 read with Rule 18 poses a major threat to Right to Privacy which has been judicially interpreted in *Justice (Retd.) K.S. Puttaswamy vs. UOI and Anr (2017) 10 SCC 1*, to be a part of Article 21 of the Constitution of India, as the Rule requires every intermediary of publisher of news and current affairs to maintain and submit the list of subscribers and users with the Central Government along-with the Grievance Redressal Report under Rule 18.

Therefore, it is respectfully submitted that by mandating such compliance from the intermediaries, the Respondents are effectively seeking circumvention of industry standard encryption tools and creating a backdoor entry for themselves to monitor online activity of users.

PART III

Code of Ethics for publishers

A Code of Ethics is laid down, as per the Appendix referred to in Rule 9. The Code of Ethics for 'publishers of news and current affairs content' consists of the Programme Code under the Cable Television Networks (Regulation) Act, 1995 ("Cable TV Act"); Journalistic Norms under the Press Council Act, 1978 ("Press Council Act"); and a blanket prohibition against content that is prohibited by any law.

Regime to supervise news content

Rule 9 sets up a three-tier structure to ensure 'observance and adherence' to the Code of Ethics.

Level 1: '*Self-regulation*' by the publisher - Grievance redressal officer to be set up by the publisher to take up a complaint by "any person having a grievance regarding content" (Rules 10 and 11)

Level 2: '*Self-regulating*' body/bodies (actually a misnomer) of an appellate nature constituted by publishers or their associations, of independent persons, but subject to the Ministry's approval. This Level 2 body has the power to warn or censure, require the publisher to apologize or display a warning/disclaimer. Note that their procedure is bound hand and foot by the Rules which obligate Level 2 bodies to refer matters of non-compliance, and a certain class of content to Level 3 for deletion or modification of the same. (Rule 12)

Level 3: '*Oversight mechanism*' by the Central Government. This is an Inter-Departmental Committee, headed by an Authorised Officer of the Government of India, consisting chiefly of serving officials from various Ministries. The Committee can directly take complaints referred to it by the Ministry of I&B. It also operates as a second appellate forum over decisions of Levels 1 and 2. In addition to the power to recommend to the Ministry of I&B, to issue various binding directions for perceived non-compliance, such as publication of apology, displaying a warning/disclaimer, etc., the Committee also has the power to recommend to the Ministry, draconian measures such as ordering the

blocking, modification or deletion of content on certain perceived dangers. Such drastic orders are subject only to approval from the Secretary of the Ministry of I&B. (Rules13-15)

Emergency Power

In addition to all of the above, there is an 'emergency power' reserved with the Secretary of Ministry of I&B to pass interim orders blocking any content without even giving an opportunity of hearing. The Rule further derives its source and power from Section 69A (2) of IT Act, 2000(Rule 16).

Reporting Obligations

Further, Rule 19 mandates a full disclosure of every complaint received and action taken, thereby providing for an abiding policing by the State.

Thus, in view of the aforesaid, the 'IMPUGNED RULES' warrant interference inter-alia on the following grounds:

A. Ultra vires the Constitution:-

- a. Because, the Central Government (the Executive) i.e., the Respondents herein, vide the 'IMPUGNED RULES' would virtually dictate the content of the digital news portals and the rules would only aid in targeting a specific class, inter alia "Publishers of News and Current Affairs content". This would clearly and squarely violate Article 14 and 19(1)(a) of the Constitution. Class based legislation is unwarranted and not legally permissible under the Constitution. The Executive with the help of the regulatory mechanism under Part III of the 'IMPUGNED RULES' which includes the

‘Code of Ethics’ shall have the power to control the news on digital platform by way of deletion, modification or blocking, censure and compelled apology. On a close scrutiny of the ‘IMPUGNED RULES’ it can be seen that online news portals have been clubbed on the same platform with social media intermediaries and platforms as distinct from print news media, thereby creating an artificial distinction between print news media and online news media which is otherwise absent, this clearly vitiates the mandate of Article 14 of the Constitution (equals cannot be treated unequally).

- b. Because, the justification given by the Central Government in paras 4 and 5 of the clarification dated 10th June, 2021 with respect to the rationale of regulating online news and current affairs content clearly vitiates the rule of law and leads to arbitrariness which is a clear violation of Article 14. The rationale of the Government/Executive is that the online /digital media and news sometimes report incidents differently as that from print media is clearly based on presumption and surmises. Therefore, the ‘IMPUGNED RULES’ with so far as regulation of digital media and publishers of online news and current affairs content is concerned, does not satisfy the twin test (test of objectivity and rationale and intelligible differentia), which is a mandatory requirement to pass the muster of Article 14.

- c. Because, the 'IMPUGNED RULES' in effect have mandated an adjudicatory mechanism parallel to the Courts of law, which is heavily impinging on the right to freedom of speech and expression guaranteed under Article 19(1)(a) of the Constitution. The adjudicatory mechanism, as mentioned in the 'IMPUGNED RULES', shall in every aspect inexorably lead to an assessment of the content by a committee of the Central Government (Inter-Ministerial/Departmental Committee, or the Ministry upon the slightest incident of 'any person' having a grievance about the news/published content. Additionally, there are independent powers of the Central Government in cases of emergency (Rule 16) to block a particular content without giving an opportunity of being heard and the same clearly vitiates the principles of natural justice.
- d. Because, the 'IMPUGNED RULES' are offensive to Article 19(1)(a) as they travel beyond the scope of reasonable restrictions as mentioned under Article 19(2). It has been well settled that reasonable restrictions have to be interpreted narrowly and not broadly. The Petitioner is the Premier News Agency of the Country and has been operating since independence. All the digital news portals are already subject to all the civil and criminal laws enacted as on date. Therefore, the 'IMPUGNED RULES' cannot be in the interest of Article 19(2); these rules are only meant to be a weapon for the Executive or the State to enter and directly control the content of online digital news portal.

- e. Because, the 'IMPUGNED RULES' are manifestly unjust and arbitrary as they create a parallel and extralegal adjudicatory mechanism with the Central Government at the helm, thereby making these rules contrary to the principle of separation of powers. The self-regulatory mechanism is just an eye wash and at every stage the publishers of online news and current affairs and digital media shall be subject to a Government diktat in addition to normal civil and criminal liabilities.
- f. Because, the freedom of press and media has been judicially interpreted to be a part of Article 19(1)(a) of the Constitution. The media and the press has been termed as 'The fourth pillar of democracy' and wide dissemination of news and views is not just the right of the publisher but also the citizen's right to be informed of variety of viewpoints. Even criticism of the State is integral to a successful democracy and therefore, giving the State any power to regulate such content directly is against public interest (*Anuradha Bhasin vs. Union of India [2020] 3 SCC 637*).
- g. Because, the 'IMPUGNED RULES' have been brought via a side door without even a debate or consultation with the stakeholders (members of the press and digital media) and the rejection of the representations by a mere clarification dated 10th June, 2021 emphasizes that the 'IMPUGNED RULES' have been forcefully thrust without any independent scrutiny. It is an abuse of plenary powers

enjoyed by the executive with the clear intent of choking the media, which is an anti-thesis to the principles of democracy.

- h. Because, the publisher is constrained to attend to each complaint and also report them to the Central Government with all action taken by the publisher. Therefore, the publisher/media is mandated to report and is subject to review by the State/Executive. Thereafter, under the level-II mechanism, the body has the power to issue binding directions which if not followed shall automatically stand escalated to level-III (Inter Ministerial Committee) which comprises of the Government officials. This is not a self-regulation as is sought to be envisaged by the Respondents herein, it is more like keeping a hawk's eye on every action which is an infringement of Right to Privacy as judicially interpreted under Article 21 of the Constitution. Further, the Code of Ethics mentions terms as vague as 'good taste' and 'decency'. Such vague terms have the capacity to trigger the entire three tier adjudicatory mechanism with the report to the State which shall result in enforced apology or censure. The 'IMPUGNED RULES' open up an arena to trigger the unwanted adjudicatory mechanism, in a situation where some particular content may not be in 'good taste' in the opinion of any individual and the publisher shall be spending all time and energy in the three-tier adjudicatory process.
- i. Because, fundamental rights must be protected from both substantive and procedural infractions. The procedure

envisaged by the three tier mechanism is unjust and draconian. Firstly, the appellate powers over a digital portal have been provided/outsourced to extraneous bodies which cannot be termed as impartial Courts. Moreover, the ultimate power to adjudicate exists with the Executive. Even the discretion of the level-II body is curtailed because it is obligated to report cases of non-compliance with its decisions to the Inter-Ministerial/Departmental committee and also to refer contents for deletion and modification. The very constitution of the level-II body is subject to the control by the Central Government. Such an adjudicatory mechanism cannot be independent. Moreover, the Central Government vide these 'IMPUGNED RULES' have sought to merge the executive with the judicial power and play a watch dog to every news content of digital media and the same amounts to transgression and violation of the principles of separation of powers, which is a part of the basic structure of the Constitution.

- j. Because, on a close scrutiny it reveals that the mechanism of the Code of Conduct in the "Impugned Rules" stands borrowed from the code of Journalistic Conduct as notified under the Press Council Act. However, the said Norms of Journalistic Conduct under the Press Council Act, operate as moral objectives for every journalist without any state action or control. Therefore, a blanket import of the Press Council Regulation, de hors the essential attributes and incorporating

the aspect of self-regulation is perverse, especially as digital news portals are essentially a part of written news medium.

B. Ultra Vires the IT Act 2000:-

- a. Because, when the Supreme Court upheld the vires of Section 69(A) of the IT Act, the Court had solely relied upon its narrow scope and the procedures mentioned under the Intermediary Rules, 2011 which were applicable to the intermediaries only. IT Rules 2021 seeks to diversify and amplify the limited reading beyond all possible recognition, to allow impermissible state dictation and interference with the digital media and online publishers of news and current affairs.
- b. Because, it is well settled that there is no unlimited right of delegation and that a subordinate legislation cannot travel beyond the scope and object of the parent Act. Any Rule or Regulation made in exercise of delegated power has to be inconsonance with the parent Act and if such rule and regulation goes beyond what the parent Act contemplates, then it becomes ultra vires the parent Act. [*Ajoy Kumar Banerjee Vs. Union of India (1984) 3 SCC 127 (para 26)*].
- c. Because, in the present case the parent IT Act deals with electronic data/record, the object and purpose of the IT Act, is to provide for legal recognition of such electronic data/record, recognized means of electronic communication, authenticate and establish conditions in which electronic

data/record could be considered as evidence and to recognize offences committed through the use of computer resources. The object is not to regulate the content beyond the aforesaid, except in so far as intermediaries are concerned, who are separately immunized. Therefore, the IT Act does not recognize the digital news media as a separate category of entities and does not seek to subject them or their content to any set of special regulations. Impugned part of the Rules to the extent that it seeks to achieve such special regulation or control over digital media including online news platforms, is manifestly ultra vires the IT Act.

- d. Because, allowing a regulatory regime which is sought to be established by the 'IMPUGNED RULES' with respect to digital media industry including publisher of news and current affairs shall be like allowing the practice and procedure of plumbing to be regulated under the Water Act.
- e. Because, the enabling provision in the IT Act conferring the rule making power of the Central Government in the instant case is Section 87 (1) wherein such power is to carry out the provisions of the Act. Even the specific provision under Section 87(2) is relatable to one or more expressed provision of the IT Act. It is submitted that the purpose of the 'IMPUGNED RULES' is solely and wholly for the regulation of online publisher of news and digital news media which is not contemplated under any of the provisions of the Act or its objects. It is well settled that Rules made de

hors 'a statutory peg' are invalid and shall have no effect in law.

B. Sudeer Vs. Bar Council of India (1999) 3 SCC 176 (para 20)

f. Because, the 'IMPUGNED RULES' provide for an oversight mechanism including the setting up of an Inter Departmental/Ministerial Committee which shall have the power to hear the grievances regarding compliance of the said code of ethics, as well as the power to recommend to the Ministry of Information and Broadcasting, draconian measures such as ordering the deletion, modification of content or blocking the same. These powers are also beyond the scope of the IT Act.

g. Because, the 'IMPUGNED RULES' have been enacted under Section 87(2)(Z)(g) in addition to Section 87(1) of the IT Act. The rule making power under the Section 87(2)(Z)(g) cannot be sourced as a power to regulate publisher of online news and the digital media, as the said power is related to intermediaries only, therefore, the publishers of news and current affairs are distinct from an intermediary has defined under the IT Act. This distinction is also evident from the 'IMPUGNED RULES'. Additionally, there is no power under the Act which empowers the Government to direct publishers to delete content or make changes or publish apologies. The rules cannot therefore, regulate the digital news media and publishers of online

news by requiring them to abide by the code of ethics by extending other legislations and rules.

- h. Because, it is trite in law that whenever a substantive burden of compliances and duties be cast on any person without a specific statutory sanction, the same is bound to be struck down as ultra vires to the Parent Act.

Bimal Chandra Banerjee vs. State of M.P. (1970) 2 SCC 467
(para 13)

- i. Because regulation of online news and digital media is an essential legislative function which cannot be delegated. The 'IMPUGNED RULES' seek to sanction an entire regulatory scheme which is clearly in violation of the judgment of the Supreme Court (*Ajoy Kumar Banerjee supra*).

- j. Because, the reading of the rule making power under the IT Act does not allow a regulatory regime for online publishers of news and digital media and the 'IMPUGNED RULES' run contrary to the rule making power under the IT Act and pertinently amounts to abuse of power.

- k. Because, by way of various press releases the Respondents have made it clear that the emergency powers under Rule 16 have their source under Section 69A (2). However, a bare reading of Section 69A(2) shows that the very provision stands amplified and diversified and the Central Government while enacting such Rule, travelled beyond the scope and

mandate of Section 69A(2) and gave a complete go-bye to the principles of natural justice. It is pertinent to mention that section 69A(2) was upheld by the Supreme Court in *Shriya Singhal* because of the limitation contained therein which have been breached by the 'IMPUGNED RULES'.

1. Because, without prejudice to the aforesaid, the Petitioner submits that the Part II of the Rules, so far as it relates to Intermediaries (except Social Media) under Rule 3(1)(d), no opportunity has been provided to a user whose speech is censored, to be notified of such takedown or even to be heard against such content being taken down. This results in blatant violation of basic principles of natural justice, i.e., *audi alteram partem*. Further, Rule 7, threatens the intermediaries to comply with Section 79(1) and the Rules, failing which they shall be liable to be prosecuted and punished under any law including the Indian Penal Code. These Rules together will also have the chilling effect of the intermediaries being over-compliant and taking down content which is found potentially infringing the IT Rules 2021.

- m. Because, on a close scrutiny, Rule 5 read with Rule 18 poses a major threat to Right to Privacy which has been judicially interpreted in *Justice (Retd.) K.S. Puttaswamy vs. UOI and Anr (2017) 10 SCC 1*, to be a part of Article 21 of the Constitution of India, as the Rule requires every intermediary of publisher of news and current affairs to

maintain and submit the list of subscribers and users with the Central Government along-with the Grievance Redressal Report under Rule 18.

- n. Because, it is respectfully submitted that by mandating such compliance from the intermediaries, the Respondents are effectively seeking circumvention of industry standard encryption tools and creating a backdoor entry for themselves to monitor online activity of users which amounts to excessive Governmental Control which in turn violates Article 19(1)(g) read with Article 19(6) of the Constitution.

Hence, this writ petition.

LIST OF DATES

17.10.2000	Information Technology Act, 2000 enacted by Parliament was brought into force.
27.10.2009	An amendment was brought in, which, among other things, added Section 66-A to the Information Technology Act, 2000.
27.10.2009	The Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009 were issued under Section 69-A of the Information Technology Act, 2000.
11.04.2011	The Information Technology (Intermediary Guidelines), Rules, 2011 were issued under Section 79(2) of the

	Information Technology Act, 2000.
25.02.2021	The Impugned Information Technology (Intermediary Guidelines & Digital Media Ethics Code) Rules, 2021, were issued under Sections 69-A (2) and 79(2), and in supersession of the Information Technology (Intermediaries Guidelines) Rules, 2011. The IT Rules, 2021, <i>inter alia</i> , seek to regulate digital news portals under Part III by imposing Government oversight and a 'Code of Ethics' on them, and therefore, go far beyond the object and scope of the IT Act.
10.06.2021	Clarifications issued by the Government of India (Ministry of Information and Broadcasting) disposing of and rejecting the representation by various media houses with respect to the impugned rules.
07.2021	Hence, the present writ petition.

Through

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Place: New Delhi

Date: 02/07/2021

IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRA ORDINARY CIVIL WRIT JURISDICTION

WRIT PETITION (CIVIL) NO. OF 2021

IN THE MATTER OF:

Press Trust of India

... Petitioner

Versus

Union of India & Anr.

... Respondents

WRIT PETITION PRAYING FOR THE ISSUANCE OF A WRIT OF MANDAMUS OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION DECLARING PART III OF THE INFORMATION TECHNOLOGY (INTERMEDIARY GUIDELINES & DIGITAL MEDIA ETHICS CODE) RULES, 2021 AS VOID AND INOPERATIVE FOR BEING VIOLATIVE OF ARTICLES 14, 19(1)(a), 19(1)(g) OF THE CONSTITUTION

AND

WRIT PETITION PRAYING FOR THE ISSUANCE OF A WRIT OF MANDAMUS OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION DECLARING PART III OF THE INFORMATION TECHNOLOGY (INTERMEDIARY GUIDELINES & DIGITAL MEDIA ETHICS CODE) RULES, 2021 AS VOID AND INOPERATIVE FOR BEING ULTRA VIRES THE INFORMATION TECHNOLOGY ACT, 2000

To

HON'BLE THE CHIEF JUSTICE AND

HIS COMPANION JUSTICES OF THE HIGH COURT OF DELHI AT

NEW DELHI

MOST RESPECTFULLY SHOWETH:-

1. This Writ Petition challenges the constitutionality and substantive vires of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (“IT Rules, 2021” or “Impugned Rules”) in so far as the said Rules purport to apply to publishers of news and current affairs and, consequently, regulate them by Part III (“Impugned Part”) of the same, on the grounds that the Impugned Rules violate Articles 14, 19(1)(a), and 19(1)(g) of the Constitution, and go far beyond the ambit of the Information Technology Act, 2000 (“IT Act”).
2. The IT Rules, 2021 have been notified and published in the Official Gazette on 25th February, 2021 and have come into effect from that date. A true copy of the IT Rules, 2021 issued on 25.02.2021 is annexed herewith and marked as ANNEXURE-P-1. The Impugned Rules enable the Government to virtually dictate content to digital news portals, and squarely violate media freedom. They introduce digital portals with ‘news and current affairs content’ as a specific and targeted class to be subject to regulation by a loose-ranging ‘Code of Ethics’, and to be consummately overseen by Central Government officers, all of which is violative of Articles 14,

19(1)(a), and 19(1)(g) of the Constitution, and goes beyond the object and scope of the IT Act

Parties

3. Petitioner is Press Trust of India Ltd., the premier news agency and publishes the digital news on its website. It was incorporated under the provisions of Companies Act, 1956. It has been operating as the premier news agency in India since Independence, with its registered office and head office in New Delhi. The Petitioner is therefore directly impacted by the operation of the Impugned Part of the IT Rules, 2021. Further, the Petitioners operate within the territory of India and conduct 'systematic business activity' making their content available in India, and therefore fall within the purview of the IT Rules, 2021, under Rule 8.
4. Respondent No.1 is the Union of India through the Secretary, Ministry of Electronics and Information Technology, through whom the Impugned Rules have been issued. Respondent No.2 is the Secretary, Ministry of Information and Broadcasting who also exercises powers under the Impugned Rules. Both Respondents are in New Delhi.

Scheme of the Information Technology Act, 2000

5. The purpose and the purport of the IT Act is as follows:

“An Act to provide legal recognition for transactions carried out by means of electronic data interchange and other means of electronic communication, commonly referred to as — electronic commerce, which involve the use of alternatives to paper-based methods of communication and storage of information, to facilitate electronic filing of documents with the Government agencies and further to amend the Indian Penal Code, the Indian Evidence Act, 1872, the Banker’s Books Evidence Act, 1891 and the Reserve Bank of India Act, 1934 and for matters connected therewith or incidental thereto”.

6. Thus, the IT Act was introduced to facilitate, recognise and ratify electronic commerce, including electronic transactions, electronic communication, electronic data/record, etc. and to enable as evidence, such electronic record and material, as provisions hitherto had not accommodated such material.
7. Pursuant to the above purpose, the entities of which the IT Act took cognizance, were all generic users of information technology. Significantly, news media was neither recognised as a separate

entity, nor news and current affairs as distinct content. Ethical regulation of the news media was entirely extraneous to the Act.

8. The content to be regulated by the IT Act, as offences, was limited to sexually explicit material, child pornography, showing private parts of individuals, cyber terrorism, etc. to be prosecuted and tried by normal courts. The Supreme Court in *Shreya Singhal v Union of India* (2015) 5 SCC 1 struck down, on the ground of vagueness, Section 66-A, which constituted as an offence, transmitting offensive, annoying, menacing electronic material. The Impugned Rules intend to regulate content on vague and subjective standards as provided in the Code of Ethics, such as 'half-truths', 'good taste', 'decency', etc.
9. Even when such a Section was contemplated by the IT Act, the Supreme Court struck it down as being unconstitutional under Article 19(1)(a). Now, without any statutory peg, similar grounds are sought to be brought in by the Impugned Rules, which not only goes beyond even what is contemplated by Section 69-A, in terms of which the Impugned Part purports to be made, but also undoes *Shreya Singhal*.

10. Save and except for providing against a narrow band of content by way of offences and blocking public access by way of a direction to intermediaries, again, on limited grounds, the IT Act does not contemplate any regulation of content, but the Impugned Rules do. Any attempt to bring in such regulatory provisions, through subordinate/delegated legislation would clearly be outside the scope of the IT Act, and in excess of the rule-making power delegated under Section 87 of the IT Act.
11. Specifically, the IT Rules, 2021, state as a source of their power, Section 87(2)(z) and (zg). Section 87(2) (zg) is relatable to Section 79, which, in view of the immunity from prosecution, allows for a special dispensation with respect to intermediaries, and is limited to intermediaries. The definition of intermediaries in the IT Act and the scheme of the IT Rules, 2021 make it clear that publishers are distinct from intermediaries. Note that a publisher is not even defined or dealt with in the IT Act. Therefore, Section 79 does not concern any non-intermediary news media platform, and the Impugned Part cannot be sourced to Section 87(2)(zg). On the other hand, Section 87(2)(z) is relatable to Section 69-A, again limited to issuing a direction to an intermediary or any Government

agency, and does not contemplate regulating news media at all. Most of the matters in the Code of Ethics are beyond Section 69-A even otherwise.

12. Regulation of any one category of business or practice is not contemplated under the Act except insofar as it relates to “intermediaries”. Section 79 of the Act provides a safe harbour provision for intermediaries from being liable for any content created by an “originator” which the intermediary merely transmits and while doing so, the provision is observant of the guidelines issued as part of the Rules made by the Central Government in exercise of powers under Section 87(2)(zg). Until the Impugned Rules came into force, the Information Technology (Intermediary Guidelines) Rules, 2011 held the field. Any attempt to smuggle in such regulatory provisions (substantive or procedural) through subordinate, delegated legislation would clearly be outside the scope of the Act.
13. The Petitioner, being in the business and/or practice of news and journalism is not an intermediary. Intermediaries are immunised from the consequences of the content hosted by them, and hence they may need to be separately regulated. The Act therefore

contemplated a set of rules in this regard. The Petitioner seeks no safe harbour and is not entitled to any safe harbour provisions for the content that it hosts and publishes and it takes full responsibility for the content it publishes. Being a publisher of news and views, all the civil and criminal laws including those under the IT Act, 2000 relating to media are applicable to the Petitioner and it is completely incorrect to say that the digital news medium is unregulated. Other democratic countries like the UK and Australia class online news outlets with the print medium, subject only to self-regulation by a voluntary body of peers, without any role or space to the State.

Scheme of IT Rules, 2021

14. The IT Rules, 2021 introduce two distinct sets of regulations: one, due diligence norms to be followed by 'intermediaries' (Part II of the Rules); two, Code of Ethics ought to be adhered to by 'publishers', along with a three-tier compliance mechanism (Part III of the Rules).
15. While Part II pertains to intermediaries, an entity recognised and regulated by the IT Act (and not the subject of challenge in the

present petition), Part III of the IT Rules, 2021, i.e., the Impugned Part, pertains to two distinct sets of 'publishers':

- (i) publishers of news and current affairs content
- (ii) publishers of online curated content

16. It is important to note that these two entities have been newly introduced in the IT Rules, 2021 and the terms 'publisher' and 'publisher of news and current affairs content' are defined as follows:

(s) *'publisher' means a publisher of news and current affairs content or a publisher of online curated content;*

(t) *'publisher of news and current affairs content' means an online paper, news portal, news aggregator, news agency and such other entity called by whatever name, which is functionally similar to publishers of news and current affairs content but shall not include newspapers, replica e-papers of the newspaper and any individual or user who is not transmitting content in the course of systematic business, professional or commercial activity;*

17. Further, the terms 'content' and 'news and current affairs content' are defined as follows:

(g) *'content' means the electronic record defined in clause (t) of section 2 of the Act;*

- (m) *'news and current affairs content' includes newly received or noteworthy content, including analysis, especially about recent events primarily of socio-political, economic or cultural nature, made available over the internet or computer networks, and any digital media shall be news and current affairs content where the context, substance, purpose, import and meaning of such information is in the nature of news and current affairs content*

Code of Ethics

18. Rule 9 of the IT Rules, 2021 (read with the Appendix) lays down a separate Code of Ethics for the two kinds of publishers. The Code of Ethics, in case of publishers of news and current affairs content (which includes the Petitioners) is as follows:
- i. Norms of Journalistic Conduct of the Press Council of India under the Press Council Act, 1978 ("Press Council Act"). A true copy of the Norms of Journalistic Conduct, 2010 is annexed herewith and marked as ANNEXURE-P-2.
 - ii. Programme Code under Section 5 of the Cable Television Networks (Regulation) Act, 1995 ("Cable TV Act") and Rules 6 and 7 of The Cable TV Rules, 1994. A true copy of

the Programme Code is annexed herewith and marked as (ANNEXURE-P-3).

iii. Content which is prohibited under any law for the time being in force shall not be published or transmitted.

19. It is pertinent to note that the Norms of Journalistic Conduct under the Press Council Act and the Programme Code under the Cable TV Act are extremely broad in their sweep, covering within their ambit things like 'good taste' and 'decency', which by their nature are subjective. Thus, the IT Rules, 2021, by incorporating these by reference, and making them part of the regulatory mechanism, have stepped outside the ambit of Section 69-A of the IT Act, which was upheld noting its narrow scope and the manner of operation of the Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009. A true copy of the Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009 is annexed herewith and marked as ANNEXURE- P-4.

20. Moreover, a sweeping Governmental oversight has been introduced in all such matters, by way of a three-tier compliance mechanism, which is as follows:

Level 1 (Rules 10 and 11): *'Self-regulation' by the publisher* - Grievance redressal officer to be set up by the publisher to take up a complaint by "any person having a grievance regarding content"

Level 2 (Rule 12): *'Self-regulation' by 'self-regulating bodies' of the publishers* - A self-regulating body of an appellate nature, constituted by publishers or their associations, of independent persons, but subject to Government approval. This body has the power to warn or censure, require the publisher to apologize, or display a warning/disclaimer. Their procedure is bound hand and foot by the Rules which obligate Level 2 bodies to refer matters of non-compliance, and a certain class of content to Level 3 for deletion or modification of the same.

Level 3 (Rules 13-15): *Oversight mechanism by the Central Government* - An Inter-Departmental Committee, headed by an Authorised Officer of the Government of India, and composed of representatives from various Ministries (and domain experts, if added). The Committee has the power to take up complaints referred to it by the Level 2 body or even directly by the Ministry of I&B. In addition to the power to recommend to the Ministry of

I&B to issue various binding directions for perceived non-compliance, such as publication of an apology, displaying a warning/disclaimer, etc., the Committee also has the power to recommend to the Ministry, draconian measures such as ordering the modification, deletion or blocking of content. Such drastic orders are subject only to approval of the Secretary of the Ministry of I&B. The grounds on which such deletion or modification may be made are:

1. To prevent incitement to the commission of a cognisable offence relating to public order (Rule 14(5)(e))
2. Grounds enumerated under Section 69-A, that is, sovereignty and integrity of India, security of State, defence of India, friendly relations with foreign States, public order or to prevent incitement to the commission of any cognizable offence relating to the above. (Rule 14(5)(f))

In addition to all of the above, there is an 'emergency power' reserved with the Secretary of Ministry of I&B, to pass interim orders blocking any content without even giving the publishers an opportunity of hearing. (Rule 16).

21. This Hon'ble Court issued notice to the Respondents in a Writ Petition (WP [Civil] No. 3125/2021) preferred by the Foundation for Independent Journalism and others challenging the validity of the Impugned Part of the Rules on 09.03.2021. A true copy of the Order dt. 09.03.2021 is annexed herewith and marked as ANNEXURE-P-5.
22. The Hon'ble High Court of Kerala issued notice to the Respondents in a Writ Petition preferred by LiveLaw Media Pvt Ltd. and others challenging the Impugned Part of the Rules on 10.03.2021. The Court further directed the Respondents against coercive steps against the Petitioners therein. A true copy of the Order dt. 10.03.2021 is annexed herewith and marked as ANNEXURE-P-6.
23. This Hon'ble Court in a similar matter – M/s Quint Digital Media Limited and Anr vs. UOI and Anr (WP [CIVIL] No. 3659/2021) challenging the validity of the Impugned Part of the Rules, had issued notice vide order dated 19.03.2021. A true copy of the Order dt. 19.03.2021 is annexed herewith and marked as ANNEXURE-P-7.

24. That, the Respondents herein had issued a clarification dated 10.06.2021, wherein, the Respondents had rejected the representations received against the Impugned Rules and had clarified their stand and rationale against each rule. A True Copy of the Clarification dated 10.06.2021 issued by the Ministry of I&B (Digital Media Division) is annexed herewith and marked as ANNEXURE – P-8.
25. That, in a similar matter (DNPA and Anr vs. UOI and Anr. – WP (CIVIL) No. 13055/2021), the Hon'ble Division Bench of the Madras High Court (Principal Bench) was pleased to issue notice upon the Respondents herein vide Order dated 23.03.2021 and had also reserved the liberty of the Petitioner therein to approach the High Court in case of any coercive action by the Respondents. True Copy of the Order dated 23.06.2021 by the Hon'ble Madras High Court is annexed herewith and marked as ANNEXURE – P-9.
26. In view of the aforesaid, the 'IMPUGNED RULES' warrant interference, inter-alia on the following grounds:

GROUNDS

- A. The reliefs prayed for in this Writ Petition are claimed on the following grounds, each of which is taken both alternatively and cumulatively and without prejudice to each other. The Petitioners crave liberty to urge additional grounds at a later stage during these proceedings.
- B. The regulations are frontally offensive to Article 19(1)(a) and Article 14. A restriction on the Fundamental Right to free speech and expression can only be to the extent strictly necessary for the stated interests in Article 19(2). Digital news portals such as the Quint, published by the Petitioners, are already subject to all the civil and criminal laws enacted for those interests. Therefore, the IT Rules, 2021 cannot be in the interest of Article 19(2). They are only meant to be a ruse for the State to enter and directly control the content of digital news portals.
- C. To club online news portals with other online platforms is itself irrational and unfair. Digital news portals are similar to print newspapers in terms of content, and ought to be treated on par with

them. Written material on current affairs, when in print or online, is not fundamentally different, so as to warrant differential treatment.

Other jurisdictions

- D. Australia treats online news portals on par with newspapers, both of which are covered by the voluntary, newspaper funded Press Council, while broadcasting including digital broadcasting is, under the Broadcasting Services Act 1992, governed by the Australian Communication and Media Authority (ACMA), an autonomous statutory body.
- E. UK has consciously exempted online news media from the proposed law to regulate “Online Harms”. The Government’s response on concerns about the new law affecting journalistic freedom, dated 15 December 2020, is as follows:

“22. Stakeholders raised concerns during the consultation about how the legislation will impact journalistic content online and the importance of upholding media freedom. Content published by a news publisher on its own site (e.g., on a newspaper or broadcaster’s website) will not be in

scope of the regulatory framework and user comments on that content will be exempted.

23. In order to protect media freedom, legislation will include robust protections for journalistic content shared on in-scope services. The government is committed to defending the invaluable role of a free media and is clear that online safety measures must do this. The government will continue to engage with a range of stakeholders to develop our proposals.”

F. A law that affects Fundamental Rights must also be reasonable, fair and just under Article 14. The IT Rules, 2021 are manifestly unjust, inasmuch as they create a parallel and extra-legal adjudicatory mechanism, which has at its apex, the Central Government. This also violates the principle of separation of powers.

G. Ultra vires the Constitution:-

a. Because, the Central Government (the Executive) i.e., the Respondents herein, vide the ‘IMPUGNED RULES’ would virtually dictate the content of the digital news portals and the

rules would only aid in targeting a specific class, inter alia “Publishers of News and Current Affairs content”. This would clearly and squarely violate Article 14 and 19(1)(a) of the Constitution. Class based legislation is unwarranted and not legally permissible under the Constitution. The Executive with the help of the regulatory mechanism under Part III of the ‘IMPUGNED RULES’ which includes the ‘Code of Ethics’ shall have the power to control the news on digital platform by way of deletion, modification or blocking, censure and compelled apology. On a close scrutiny of the ‘IMPUGNED RULES’ it can be seen that online news portals have been clubbed on the same platform with social media intermediaries and platforms as distinct from print news media, thereby creating an artificial distinction between print news media and online news media which is otherwise absent, this clearly vitiates the mandate of Article 14 of the Constitution (equals cannot be treated unequally).

- b. Because, the justification given by the Central Government in paras 4 and 5 of the clarification dated 10th June, 2021 with respect to the rationale of regulating online news and current

affairs content clearly vitiates the rule of law and leads to arbitrariness which is a clear violation of Article 14. The rationale of the Government/ Executive is that the online /digital media and news sometimes report incidents differently as that from print media is clearly based on presumption and surmises. Therefore, the 'IMPUGNED RULES' with so far as regulation of digital media and publishers of online news and current affairs content is concerned, does not satisfy the twin test (test of objectivity and rationale and intelligible differentia), which is a mandatory requirement to pass the muster of Article 14.

- c. Because, the 'IMPUGNED RULES' in effect have mandated an adjudicatory mechanism parallel to the Courts of law, which is heavily impinging on the right to freedom of speech and expression guaranteed under Article 19(1)(a) of the Constitution. The adjudicatory mechanism, as mentioned in the 'IMPUGNED RULES', shall in every aspect inexorably lead to an assessment of the content by a committee of the Central Government (Inter-Ministerial / Departmental Committee, or the Ministry upon the slightest incident of 'any

person' having a grievance about the news/published content. Additionally, there are independent powers of the Central Government in cases of emergency (Rule 16) to block a particular content without giving an opportunity of being heard and the same clearly vitiates the principles of natural justice.

- d. Because, the 'IMPUGNED RULES' are offensive to Article 19(1)(a) as they travel beyond the scope of reasonable restrictions as mentioned under Article 19(2). It has been well settled that reasonable restrictions have to be interpreted narrowly and not broadly. The Petitioner is the Premier News Agency of the Country and has been operating since independence. All the digital news portals are already subject to all the civil and criminal laws enacted as on date. Therefore, the 'IMPUGNED RULES' cannot be in the interest of Article 19(2); these rules are only meant to be a weapon for the Executive or the State to enter and directly control the content of online digital news portal.
- e. Because, the 'IMPUGNED RULES' are manifestly unjust and arbitrary as they create a parallel and extralegal adjudicatory mechanism with the Central Government at the helm, thereby

making these rules contrary to the principle of separation of powers. The self-regulatory mechanism is just an eye wash and at every stage the publishers of online news and current affairs and digital media shall be subject to a Government diktat in addition to normal civil and criminal liabilities.

- f. Because, the freedom of press and media has been judicially interpreted to be a part of Article 19(1)(a) of the Constitution. The media and the press has been termed as ‘The fourth pillar of democracy’ and wide dissemination of news and views is not just the right of the publisher but also the citizen’s right to be informed of variety of viewpoints. Even criticism of the State is integral to a successful democracy and therefore, giving the State any power to regulate such content directly is against public interest. (*Express Newspaper (P) Limited vs. UOI [1959 SCR 12]*), (*Anuradha Bhasin vs. Union of India [2020] 3 SCC 637*) and (*Chief Election Commissioner of India vs. M.R. Vijaybhaskar and Ors – Civil Appeal No. 1767 of 2021 – Judgment dated 06.05.2021 [paras 25 and 27]*).
- g. Because, the ‘IMPUGNED RULES’ have been brought via a side door without even a debate or consultation with the

stakeholders (members of the press and digital media) and the rejection of the representations by a mere clarification dated 10th June, 2021 emphasizes that the 'IMPUGNED RULES' have been forcefully thrust without any independent scrutiny. It is an abuse of plenary powers enjoyed by the executive with the clear intent of choking the media, which is an anti-thesis to the principles of democracy.

- h. Because, the publisher is constrained to attend to each complaint and also report them to the Central Government with all action taken by the publisher. Therefore, the publisher/media is mandated to report and is subject to review by the State/Executive. Thereafter, under the level-II mechanism, the body has the power to issue binding directions which if not followed shall automatically stand escalated to level-III (Inter Ministerial Committee) which comprises of the Government officials. This is not a self-regulation as it sought to be envisaged by the Respondents herein, it is more like keeping a hawk's eye on every action which is an infringement of Right to Privacy as judicially interpreted under Article 21 of the Constitution. Further, the Code of Ethics mentions terms as vague as 'good taste' and 'decency'. Such vague terms have

the capacity to trigger the entire three tier adjudicatory mechanism with the report to the State which shall result in enforced apology or censure. The 'IMPUGNED RULES' open up an arena to trigger the unwanted adjudicatory mechanism, in a situation where some particular content may not be in 'good taste' in the opinion of any individual and the publisher shall be spending all time and energy in the three-tier adjudicatory process.

- i. Because, fundamental rights must be protected from both substantive and procedural infractions. The procedure envisaged by the three tier mechanism is unjust and draconian. Firstly, the appellate powers over a digital portal have been provided/outsourced to extraneous bodies which cannot be termed as impartial Courts. Moreover, the ultimate power to adjudicate exists with the Executive. Even the discretion of the level-II body is curtailed because it is obligated to report cases of non-compliance with its decisions to the Inter-Ministerial/ Departmental committee and also to refer contents for deletion and modification. The very constitution of the level-II body is subject to the control by the Central Government. Such an

adjudicatory mechanism cannot be independent. Moreover, the Central Government vide these 'IMPUGNED RULES' have sought to merge the executive with the judicial power and play a watch dog to every news content of digital media and the same amounts to transgression and violation of the principles of separation of powers, which is a part of the basic structure of the Constitution.

- j. Because, on a close scrutiny it reveals that the mechanism of the Code of Conduct in the "Impugned Rules" stands borrowed from the code of Journalistic Conduct as notified under the Press Council Act. However, the said Norms of Journalistic Conduct under the Press Council Act, operate as moral objectives for every journalist without any state action or control. Therefore, a blanket import of the Press Council Regulation, de hors the essential attributes and incorporating the aspect of self-regulation is perverse, especially as digital news portals are essentially a part of written news medium.

H. Ultra Vires the IT Act 2000:-

- a. Because, when the Supreme Court upheld the vires of Section 69(A) of the IT Act, the Court had solely relied upon its narrow scope and the procedures mentioned under the

Intermediary Rules, 2011 which were applicable to the intermediaries only. IT Rules 2021 seeks to diversify and amplify the limited reading beyond all possible recognition, to allow impermissible state dictation and interference with the digital media and online publishers of news and current affairs.

- b. Because, it is well settled that there is no unlimited right of delegation and that a subordinate legislation cannot travel beyond the scope and object of the parent Act. Any Rule or Regulation made in exercise of delegated power has to be inconsonance with the parent Act and if such rule and regulation goes beyond what the parent Act contemplates, then it becomes ultra vires the parent Act. [*Ajoy Kumar Banerjee Vs. Union of India (1984) 3 SCC 127(para 26)*].
- c. Because, in the present case the parent IT Act deals with electronic data/record, the object and purpose of the IT Act, is to provide for legal recognition of such electronic data/record, recognized means of electronic communication, authenticate and establish conditions in which electronic data/record could be considered as evidence and to recognize offences

committed through the use of computer resources. The object is not to regulate the content beyond the aforesaid, except in so far as intermediaries are concerned, who are separately immunized. Therefore, the IT Act does not recognize the digital news media as a separate category of entities and does not seek to subject them or their content to any set of special regulations. Impugned part of the Rules to the extent that it seeks to achieve such special regulation or control over digital media including online news platforms, is manifestly ultra vires the IT Act.

- d. Because, allowing a regulatory regime which is sought to be established by the 'IMPUGNED RULES' with respect to digital media industry including publisher of news and current affairs shall be like allowing the practice and procedure of plumbing to be regulated under the Water Act.
- e. Because, the enabling provision in the IT Act conferring the rule making power of the Central Government in the instant case is Section 87 (1) wherein such power is to carry out the provisions of the Act. Even the specific provision under Section 87(2) is relatable to one or more expressed provision

of the IT Act. It is submitted that the purpose of the 'IMPUGNED RULES' is solely and wholly for the regulation of online publisher of news and digital news media which is not contemplated under any of the provisions of the Act or its objects. It is well settled that Rules made de hors 'a statutory peg' are invalid and shall have no effect in law.

B. Sudeer Vs. Bar Council of India (1999) 3 SCC 176 (para 20)

f. Because, the 'IMPUGNED RULES' provide for an oversight mechanism including the setting up of an Inter Departmental/Ministerial Committee which shall have the power to hear the grievances regarding compliance of the said code of ethics, as well as the power to recommend to the Ministry of Information and Broadcasting, draconian measures such as ordering the deletion, modification of content or blocking the same. These powers are also beyond the scope of IT Act.

g. Because, the 'IMPUGNED RULES' have been enacted under Section 87(2)(Z) (g) in addition to Section 87(1) of the IT Act. The rule making power under the Section 87(2)(Z)(g) cannot

be sourced as a power to regulate publisher of online news and the digital media, as the said power is related to intermediaries only, therefore, the publishers of news and current affairs are distinct from an intermediary has defined under the IT Act. This distinction is also evident from the 'IMPUGNED RULES'. Additionally, there is no power under the Act which empowers the Government to direct publishers to delete content or make changes or publish apologies. The rules cannot therefore, regulate the digital news media and publishers of online news by requiring them to abide by the court of ethics by extending other legislations and rules.

- h. Because, it is trite in law that whenever a substantive burden of compliances and duties be cast on any person without a specific statutory sanction, the same is bound to be struck down as ultra vires to the Parent Act.

Bimal Chandra Banerjee vs. State of M.P. (1970) 2 SCC 467
(para 13)

- i. Because regulation of online news and digital media is an essential legislative function which cannot be delegated. The

'IMPUGNED RULES' seek to sanction an entire regulatory scheme which is clearly in violation of the judgment of the Supreme Court (*Ajoy Kumar Banerjee supra*).

- j. Because, the reading of the rule making power under the IT Act does not allow a regulatory regime for online publishers of news and digital media and the 'IMPUGNED RULES' run contrary to the rule making power under the IT Act and pertinently amounts to abuse of power.
- k. Because, by way of various press releases the Respondents have made it clear that the emergency powers under Rule 16 have their source under Section 69A (2). However, a bare reading of Section 69A(2) shows that the very provision stands amplified and diversified and the Central Government while enacting such Rule, travelled beyond the scope and mandate of Section 69A(2) and gave a complete go-bye to the principles of natural justice. It is pertinent to mention that section 69A(2) was upheld by the Supreme Court in *Shriya Singhal* because of the limitation contained therein which have been breached by the 'IMPUGNED RULES'.

1. Because, without prejudice to the aforesaid, the Petitioner submits that the Part II of the Rules, so far as it relates to Intermediaries (except Social Media) under Rule 3(1)(d), no opportunity has been provided to a user whose speech is censored, to be notified of such takedown or even to be heard against such content being taken down. This results in blatant violation of basic principles of natural justice, i.e., *audi alteram partem*. Further, Rule 7, threatens the intermediaries to comply with Section 79(1) and the Rules, failing which they shall be liable to be prosecuted and punished under any law including the Indian Penal Code. These Rules together will also have the chilling effect of the intermediaries being over-compliant and taking down content which is found potentially infringing the IT Rules 2021.
- m. Because, on a close scrutiny, Rule 5 read with Rule 18 poses a major threat to Right to Privacy which has been judicially interpreted in *Justice (Retd.) K.S. Puttaswamy vs. UOI and Anr (2017) 10 SCC 1*, to be a part of Article 21 of the Constitution of India, as the Rule requires every intermediary of publisher of news and current affairs to maintain and submit the list of

subscribers and users with the Central Government along-with the Grievance Redressal Report under Rule 18.

n. Because, it is respectfully submitted that by mandating such compliance from the intermediaries, the Respondents are effectively seeking circumvention of industry standard encryption tools and creating a backdoor entry for themselves to monitor online activity of users which amounts to excessive Governmental Control which in turn violates Article 19(1) (g) read with Article 19(6) of the Constitution.

27. That the Petitioner craves leave to add, to alter or delete from the grounds mentioned above.

28. That the Petitioner has not filed any other writ petition before this Hon'ble Court or before the Hon'ble Supreme Court of India on the same cause of action.

29. That the annexures filed along with this Writ Petition are true and correct copies of their originals.

PRAYER

In view of the facts and circumstances, stated hereinabove, it is most respectfully prayed that this Hon'ble Court may be pleased to:

a) Issue an appropriate writ of mandamus or any other appropriate writ, order or direction declaring Part III of the information technology (intermediary guidelines & digital media ethics code) Rules, 2021 as void and inoperative in so far as they define and apply to publisher of news and current affairs content, and Part III of the Rules, in so far as it regulates publishers of news and current affairs content for being violative of Article 14, 19(1)(a), 19(1)(g) of the Constitution of India;

b) Issue an appropriate writ of mandamus or any other appropriate writ, order or direction declaring the rules of information technology (intermediary guidelines & digital media ethics code) Rules, 2021 as void and inoperative in so far as they define and apply to publisher of news and current affairs content and part III of the Rules in so far as it regulates publishers of news and current affairs content for being ultra vires the Information Technology Act, 2000;

- c) Pass such other or further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

Nimisha



PETITIONER

Through

Swarnendu Chatterjee


Wasim Beg/Swarnendu Chatterjee


L&L Partners

Law Offices-Litigation

Advocates for the Petitioner

103, Ashoka Estate, Barakhamba Road,
New Delhi-110001

Email: 

Mobile No 

Place: New Delhi

Date: *02/07/2021*

IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRA ORDINARY CIVIL WRIT JURISDICTION
WRIT PETITION (CIVIL) NO. OF 2021

IN THE MATTER OF:

Press Trust of India

... Petitioner

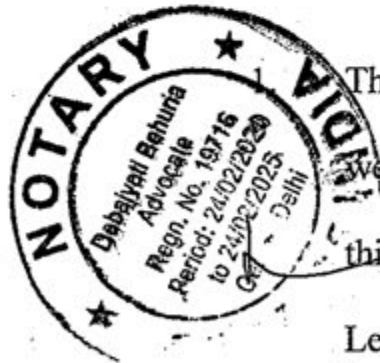
Versus

Union of India & Anr.

... Respondents

AFFIDAVIT

I, M.R. Mishra [REDACTED] being
the Chief Administrative Officer of the Press Trust of India Ltd., having
its registered and Head office at PTI Building 4, Parliament Street, New
Delhi- 110 001, above named do hereby solemnly affirm and declare as
under:



That I am the Petitioner in the above noted case and as such I am
well conversant with the facts of the case and competent to swear
this Affidavit. I stand authorized to swear upon this Affidavit vide
Letter of Authorisation dated 30.06.2021.

2. That the contents of the accompanying writ petition under Article 226/227 including the Synopsis & List of Dates, pages 10 to 28, and the contents of the Para 1 to 26 of the writ petition are true and correct to my knowledge and the contents of pages 44 to 60 are true upon the legal advice received and believed to be true and the last para is prayer to this Hon'ble Court.



I say that Annexures filed along with the petition are true and correct copies of their respective originals.

MR Mishra

DEPONENT

VERIFICATION

I, deponent the above named do hereby verify that the contents of the above affidavit are true to my knowledge, no part of it is false and nothing has been concealed there from. 02 JUL 2021

Verified at New Delhi on this day of July, 2021.

Sy Muneesh Chatterjee
I identified the deponent who has signed in my presence.

MR Mishra

DEPONENT

CERTIFIED THAT THE DEPONENT
Shri/Smt./Km..... *MR Mishra*
S/o, W/o P/o..... *Mr. Anil Kumar Mishra*
Identified by Shri/Smt..... *S. Chatterjee*
Has solemnly affirmed before me at
Delhi on..... as S. No. (.....)
That the contents of the affidavit which
have been read & explained to him/her
are true & correct to his/her knowledge

02 JUL 2021 NOTARY



भारत का राजपत्र

The Gazette of India

सी.जी.-डी.एल.-अ.-25022021-225464
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असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)
PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 98]
No. 98]

नई दिल्ली, बृहस्पतिवार, फरवरी 25, 2021/फाल्गुन 6, 1942
NEW DELHI, THURSDAY, FEBRUARY 25, 2021/PHALGUNA 6, 1942

इलेक्ट्रॉनिक और सूचना प्रौद्योगिकी मंत्रालय

अधिसूचना

नई दिल्ली, 25 फरवरी, 2021

सा.का.नि. 139(अ).—केंद्रीय सरकार, सूचना प्रौद्योगिकी अधिनियम, 2000 (2000 का 21) की धारा 87 की उपधारा (2) के खंड (य) और खंड (यछ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और सूचना प्रौद्योगिकी (मध्यवर्ती दिशानिर्देश) नियम, 2011 को उन बातों के सिवाय, जिन्हें ऐसे अधिक्रमण से पूर्व किया गया है या करने का लोप किया गया है, अधिक्रान्त करते हुए निम्नलिखित नियम बनाती है, अर्थात्:—

भाग 1

प्रारंभिक

1. संक्षिप्त नाम और प्रारंभ - (1) इन नियमों का संक्षिप्त नाम सूचना प्रौद्योगिकी (मध्यवर्ती दिशानिर्देश और डिजिटल मीडिया आचार संहिता) नियम, 2021 है।

(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. परिभाषाएं—(1) इन नियमों में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हों,—

- (क) "पहुंच नियंत्रण तंत्र" से कोई उपाय अभिप्रेत है जिसके अंतर्गत तकनीकी उपाय सम्मिलित है जिसके माध्यम से आनलाइन क्यूरेटेड अंतर्वस्तु पर पहुंच को उपयोक्ता की पहचान या आयु के सत्यापन के आधार पर निर्बन्धित किया जा सकेगा ;
- (ख) "पहुंच सेवाएं" से कोई उपाय अभिप्रेत है जिसके अंतर्गत बद्ध अनुशीर्षण, उपशीर्षण और श्रव्य विवरण सम्मिलित हैं जिसके माध्यम से आनलाइन क्यूरेटेड अंतर्वस्तु पर दिव्यांगजनों के लिए पहुंच में सुधार किया जा सकता है ;

- (ग) "अधिनियम" से सूचना प्रौद्योगिकी अधिनियम, 2000 (2000 का 21) अभिप्रेत है ;
- (घ) "बालक" से 18 वर्ष से कम आयु का बालक अभिप्रेत है ;
- (ङ) "समिति" से नियम 14 के अधीन गठित अंतर्विभागीय समिति अभिप्रेत है ;
- (च) "संचार संपर्क" से किसी हाइपर टैक्स्ट या ग्राफिकल एलीमेंट के बीच और समान या भिन्न इलैक्ट्रानिकी दस्तावेज के बीच एक या अधिक मर्दों में संपर्क अभिप्रेत है जिनमें किसी हाइपर लिंक की गई मद को दबाने पर उपयोक्ता को स्वतः हाइपर लिंक के दूसरे छोर पर अंतरित कर दिया जाता है जो दूसरा इलैक्ट्रानिकी अभिलेख या कोई अन्य वेबसाइट या अनुप्रयोग या ग्राफिकल एलीमेंट हो सकता है ;
- (छ) "अंतर्वस्तु" से अधिनियम की धारा 2 के खंड (न) के अधीन परिभाषित इलैक्ट्रानिकी अभिलेख अभिप्रेत है ;
- (ज) "अंतर्वस्तु विवरणकर्ता" से ऐसे मुद्दे और चिंताएँ अभिप्रेत है जो किसी आनलाईन कुरेटड अंतर्वस्तु के वर्गीकरण से सुसंगत है, जिसके अंतर्गत विभेद, अवैध या खतरनाक पदार्थों का चित्रण, अनुकरणीय व्यवहार, नग्नता, भाषा, सैक्स, हिंसा, डर, धमकी, हारर और अन्य ऐसी चिंताएँ सम्मिलित हैं जिन्हें इन नियमों से उपाबद्ध अनुसूची में विनिर्दिष्ट किया गया है ;
- (झ) "डिजिटल मीडिया" से ऐसी डिजिटल की गई अंतर्वस्तु अभिप्रेत है जिसका इंटरनेट या कंप्यूटर नेटवर्कों पर पारेषण किया जा सकता है और इसके अंतर्गत निम्नलिखित द्वारा प्राप्त की गई, भंडार की गई, पारेषण की गई, संपादित या प्रोसेस की गई —

(i) मध्यवर्ती ; या

(ii) समाचार और करंट अफेयर अंतर्वस्तु का प्रकाशक या आनलाईन क्यूरेटेड अंतर्वस्तु का प्रकाशक ;

- (अ) "शिकायत" के अंतर्गत कोई परिवाद चाहे किसी अंतर्वस्तु, किसी मध्यवर्ती या प्रकाशक के इस अधिनियम के अधीन कर्तव्य से संबंधित है या, यथास्थिति, किसी मध्यवर्ती या प्रकाशक के कंप्यूटर संसाधनों से संबंधित है ;
- (ट) "शिकायत अधिकारी" से इन नियमों के प्रयोजनों के लिए, यथास्थिति, मध्यवर्ती या प्रकाशक द्वारा नियुक्त कोई अधिकारी अभिप्रेत है ;
- (ठ) "मंत्रालय" से इन नियमों के भाग 2 को प्रयोजन के लिए जब तक कि अन्यथा विनिर्दिष्ट न हों, इलैक्ट्रानिक और सूचना प्रौद्योगिकी मंत्रालय, भारत सरकार और इन नियमों के भाग 3 के प्रयोजनों के लिए सूचना और प्रसारण मंत्रालय, भारत सरकार अभिप्रेत है ;
- (ड) "समाचार और करंट अफेयर अंतर्वस्तु" के अंतर्गत नए प्राप्त या उल्लेखनीय अंतर्वस्तु जिसके अंतर्गत विवरण विशेषकर मुख्यतः सामाजिक, राजनीतिक, आर्थिक या सांस्कृतिक प्रकृति की हाल ही की घटनाएँ सम्मिलित है जिन्हें इंटरनेट या कंप्यूटर नेटवर्कों पर उपलब्ध कराया गया है और कोई अन्य डिजिटल मीडिया जिसमें समाचार और करंट अफेयर अंतर्वस्तु है जिनमें परिप्रेक्ष्य, सार, प्रयोजन, महत्ता और ऐसी सूचना का अर्थ समाचार और करंट अफेयर की प्रकृति का है, सम्मिलित है ;
- (ढ) "समाचारपत्र" से खुली, मोड़ी हुई शीटों का आवधिक पत्र अभिप्रेत है जिसे प्रायः अखबारी कागज पर प्रिंट किया जाता है और दैनिक रूप से या कम से कम सप्ताह में एक बार निकाला जाता है, जिसमें वर्तमान घटनाक्रम, लोक समाचार पर सूचना या लोक समाचारों पर टिप्पणियाँ अंतर्विष्ट होती है ;
- (ण) "समाचार एग्रीगेटर" से कोई अस्तित्व अभिप्रेत है जो समाचारों और करंट अफेयर अंतर्वस्तु को उपलब्ध कराने में अवधारण करने के लिए महत्वपूर्ण भूमिका का निर्वाह करता है उपयोक्ताओं को किसी कंप्यूटर संसाधन को उपलब्ध कराता है, जो ऐसे उपयोक्ताओं को समाचारों और करंट अफेयर अंतर्वस्तु जिसको एग्रीगेट किया जा रहा है, कुरेट किया जा रहा है और ऐसे अस्तित्व द्वारा प्रस्तुत किया जा रहा है, तक पहुंच बनाने में समर्थ करता है ;

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- (त) "मांग पर" से कोई सिस्टम अभिप्रेत है जहाँ कोई उपयोक्ता, अभिदाता या दर्शक को ऐसे उपयोक्ता द्वारा इलैक्ट्रानिकी रूप में किसी अंतर्वस्तु को, जिसका किसी कंप्यूटर संसाधन पर पारेषण किया जाता है पर ऐसे उपयोक्ता द्वारा चुने गए समय पर और उपयोक्ता द्वारा चयन किए गए अनुसार पहुंच बनाने के लिए समर्थ बनाया जाता है;
- (थ) "आनलाइन क्यूरेटेड अंतर्वस्तु" से समाचार और करंट अफेयर अंतर्वस्तु से भिन्न श्रव्य दृश्य अंतर्वस्तु का क्यूरेटेड कैटालाग अभिप्रेत है जिसका क्यूरेटेड आनलाइन अंतर्वस्तु प्रकाशक स्वामी है, अनुज्ञाधिकारी है या जिसके साथ पारेषण की संविदा की गई है और जिसको मांग पर उपलब्ध कराया जाता है जिसके अंतर्गत किंतु उस तक ही सीमित नहीं है, अंशदान के माध्यम से इंटरनेट या कंप्यूटर नेटवर्क पर उपलब्ध कराया जाता है और इसके अंतर्गत फिल्म, श्रव्य दृश्य कार्यक्रम, डाक्यूमेंट्री, टेलीविजन कार्यक्रम, सीरियल, पॉडकास्ट और ऐसी अन्य अंतर्वस्तु सम्मिलित है;
- (द) "व्यक्ति" से आय-कर अधिनियम, 1961 (1961 का 43) की धारा 2 की उपधारा (31) में यथापरिभाषित व्यक्ति अभिप्रेत है;
- (ध) "प्रकाशक" से समाचार और करंट अफेयर अंतर्वस्तु का प्रकाशक या आनलाइन क्यूरेटेड अंतर्वस्तु का प्रकाशक अभिप्रेत है;
- (न) "समाचार और करंट अफेयर अंतर्वस्तु का प्रकाशक" से किसी आनलाइन पेपर, समाचार पोर्टल, समाचार एग्ग्रेगेटर, समाचार अभिकरण और ऐसा कोई अन्य अस्तित्व अभिप्रेत है जो चाहे किसी भी नाम से ज्ञात हो, जो कार्य करने के स्वरूप में समाचार और करंट अफेयर अंतर्वस्तु के प्रकाशक के अनुरूप हों किंतु इसके अंतर्गत समाचार पत्र, समाचार पत्रों के ई-पत्रों की अनुकृति और कोई व्यक्ति या उपयोक्ता सम्मिलित नहीं होगा जो क्रमबद्ध कारबार व्यवसायिक या वाणिज्यिक कार्यकलाप के प्रक्रम में अंतर्वस्तु का पारेषण नहीं करता है;
- (प) "आनलाइन क्यूरेटेड अंतर्वस्तु का प्रकाशक" से कोई प्रकाशक अभिप्रेत है जो किसी आनलाइन क्यूरेटेड अंतर्वस्तु अभिप्रेत है जो किसी आनलाइन क्यूरेटेड अंतर्वस्तु को उपलब्ध कराने का अवधारण करने में महत्वपूर्ण भूमिका निभाता है, उपयोक्ताओं को किसी कंप्यूटर संसाधन को उपलब्ध कराता है, जो ऐसे उपयोक्ताओं को इंटरनेट या कंप्यूटर नेटवर्क पर आनलाइन क्यूरेटेड अंतर्वस्तु तक पहुंच बनाने में समर्थ करते हैं और ऐसा अन्य अस्तित्व चाहे किसी भी नाम से ज्ञात हो, जो कार्य करने में आनलाइन क्यूरेटेड अंतर्वस्तु के प्रकाशकों के समान हो किंतु इसके अंतर्गत कोई व्यक्ति या उपयोक्ता सम्मिलित नहीं है जो क्रमबद्ध कारबार वृत्तिक या वाणिज्यिक कार्यकलाप के प्रक्रम में अंतर्वस्तु का पारेषण नहीं करता है;
- (फ) "महत्वपूर्ण सोशल मीडिया मध्यवर्ती" से सोशल मीडिया मध्यवर्ती अभिप्रेत है जिसके पास ऐसी अवसीमा जो केन्द्रीय सरकार द्वारा अधिसूचित की जाए पर अनेक संख्या में भारत में रजिस्ट्रीकृत उपयोक्ता हैं;
- (ब) "सोशल मीडिया मध्यवर्ती" से कोई मध्यवर्ती अभिप्रेत है जो प्रारंभिक रूप से या एकमात्र रूप से दो या अधिक उपयोक्ताओं के बीच आनलाइन इंटरैक्शन को समर्थ बनाता है और उन्हें अपनी सेवाओं का उपयोग करते हुए सूचना का सृजन करने में, अपलोड करने में, उसे बांटने में, उसका प्रसार करने में, उसे उपांतरित करने में या उस तक पहुंच बनाने में समर्थ बनाता है;
- (भ) "उपयोक्ता" से कोई व्यक्ति अभिप्रेत है जो किसी मध्यवर्ती या प्रकाशक के कंप्यूटर संसाधन तक पहुंच बनाता है या उसे सूचना को होस्ट करने, प्रकाशित करने, बांटने, अंतरण करने, देखने, प्रदर्शित करने, डाउनलोड करने या अपलोड करने के प्रयोजन के लिए किसी कंप्यूटर संसाधन का उपयोग करता है और इसके अंतर्गत ऐसे कंप्यूटर संसाधनों का उपयोग करने में मध्यवर्ती या प्रकाशक और पाने वाले तथा आरिजिनेटर का उपयोग करता है;
- (म) "उपयोक्ता एकाउंट" से किसी मध्यवर्ती या प्रकाशक के पास किसी उपयोक्ता के एकाउंट का रजिस्ट्रीकरण अभिप्रेत है और इसके अंतर्गत प्रोफाइल, एकाउंट, पेज, हैंडल्स और ऐसे समान प्रेजेंस सम्मिलित है जिनके द्वारा कोई उपयोक्ता मध्यवर्ती या प्रकाशक द्वारा प्रस्ताव की गई सेवाओं तक पहुंच करने में समर्थ होता है, अभिप्रेत है।

(2) उन शब्दों और पदों का, जो इन नियमों में प्रयुक्त हैं और परिभाषित नहीं हैं, किंतु अधिनियम और तदधीन बनाए गए नियमों में परिभाषित हैं, वही अर्थ होगा, जो उनका क्रमशः, यथास्थिति, अधिनियम और उक्त नियमों में है।

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भाग 2

मध्यवर्तियों द्वारा सम्यक् तत्परता और शिकायत प्रतितोषण क्रियाविधि

3. (1) मध्यवर्ती द्वारा सम्यक् तत्परता का रखा जाना – कोई मध्यवर्ती जिसके अंतर्गत सामाजिक मीडिया मध्यवर्ती और महत्वपूर्ण सामाजिक मीडिया मध्यवर्ती सम्मिलित है अपने कर्तव्यों का निर्वहन करते हुए निम्नलिखित सम्यक् तत्परता का पालन करेगा, अर्थात् –

(क) मध्यवर्ती, यथास्थिति, अपनी वेबसाइट, मोबाईल आधारित अनुप्रयोग या दोनों पर किसी व्यक्ति द्वारा अपने कंप्यूटर संसाधनों तक पहुंच या उपयोग के लिए नियम और विनियम, प्राइवैसी नीति और उपयोक्ता करार को प्रकाशित करेगा;

(ख) मध्यवर्ती के नियम और विनियम, प्राइवैसी नीति या उपयोक्ता करार कंप्यूटर संसाधित के उपयोक्ता को किसी सूचना को होस्ट नहीं करेंगे, प्रदर्शित नहीं करेंगे, अपलोड नहीं करेंगे, उपांतरित नहीं करेंगे, प्रकाशित नहीं करेंगे, पारेषित नहीं करेंगे, भंडार नहीं करेंगे, अद्यतन नहीं करेंगे या साझा नहीं करेंगे जो –

(i) किसी अन्य व्यक्ति से संबंध रखती है जिसके प्रति उपयोक्ता के पास कोई अधिकार नहीं है;

(ii) अपमानजनक है, अश्लील है, कामोद्दीपक है, बालयौन शोषण संबंधी है, किसी दूसरे व्यक्ति की निजता को भंग करने वाली है, जिसके अंतर्गत शारीरिक निजता, लिंग के आधार पर अपमानजनक या तंग करने वाली है, निंदाकारी है, मूल वंश या जातीय रूप से आक्षेपकारक है जो धनशोधन या जुआ या उससे संबंधित या बढ़ावा देने वाली है या अन्यथा तत्समय प्रवृत्त किसी विधि से असंगत या उसके प्रतिकूल है;

(iii) बालक के लिए हानिप्रद है;

(iv) किसी पेटेंट, व्यापार चिह्न, प्रतिलिप्याधिकार या अन्य सांपातिक अधिकारों का अतिलंघन करती है;

(v) तत्समय प्रवृत्त किसी विधि का उल्लंघन करती है;

(vi) पाने वाले को संदेश के उद्भव के संबंध में धोखा देती है या भ्रामक है या जानबूझकर या आशयपूर्वक किसी ऐसी सूचना से संसूचित करती है जो स्पष्ट रूप से मिथ्य या भ्रामक प्रकृति की है किंतु जिसे युक्तियुक्त रूप से एक तथ्य के रूप में देखा जा सकता है;

(vii) किसी अन्य व्यक्ति का प्रतिरूपण करती है;

(viii) भारत की एकता, अखंडता, रक्षा, सुरक्षा या संप्रभुता, विदेशों के साथ मैत्रीपूर्ण संबंधों या लोक व्यवस्था को चुनौती देता है या किसी संज्ञेय अपराध को कारित करने के लिए उद्दीपित करता है या किसी अपराध के अन्वेषण को रोकता है या किसी दूसरे राष्ट्र का अपमान करता है;

(ix) उसमें कोई साफ्टवेयर वायरस या कोई अन्य कंप्यूटर कोड, फाइल या प्रोग्राम अंतर्विष्ट है जिसे किसी कंप्यूटर संसाधन में व्यवधान डालने, उसे नष्ट करने या उसके कार्य करने को सीमित करने के लिए डिजाइन किया गया है;

(x) जो स्पष्ट रूप से मिथ्य है और सत्य नहीं है तथा उसे किसी ऐसे प्ररूप में लिखा गया है या प्रकाशित किया जाता है जिसका आशय किसी व्यक्ति, अस्तित्व या अभिकरण को वित्तीय अभिलाभ के लिए तंग करना या किसी व्यक्ति को कोई उपहासि कारित करना;

(ग) मध्यवर्ती आवधिक रूप से अपने उपयोक्ताओं को कम से कम वर्ष में एक बार सूचित करेगा कि ऐसे मध्यवर्ती के कंप्यूटर संसाधनों के उपयोग के लिए नियमों और विनियमों, निजता नीति या उपयोक्ता करार कि अननुपालना की दशा में उसे उपयोक्ताओं की पहुंच के अधिकार या कंप्यूटर संसाधनों के उपयोग अधिकारों को तुरंत समाप्त करने का या, यथास्थिति, अननुपालना सूचना या दोनों को हटाने का अधिकार होगा।

(घ) कोई मध्यवर्ती किसी अधिकारिता रखने वाले सक्षम न्यायालय या समुचित सरकार या उसके अभिकरण द्वारा अधिनियम की धारा 79 की उपधारा (3) के खंड (ख) के अधीन अधिसूचित किए जाने पर किसी आदेश के रूप में वास्तविक जानकारी की प्राप्ति पर किसी अविधिपूर्ण सूचना को होस्ट नहीं करेगा, भंडार नहीं करेगा या प्रकाशित नहीं करेगा, जो तत्समय प्रवृत्त किसी विधि के अधीन भारत की संप्रभुता और अखंडता; राज्य की सुरक्षा; विदेशों के साथ मैत्रीपूर्ण संबंधों; लोक व्यवस्था, शिष्टता या नैतिकता; किसी न्यायालय की अवमानना; मानहानि; पूर्वोक्त के संबंध में किसी अपराध के उद्दीपन या किसी सूचना के संबंध में है जो तत्समय प्रवृत्त किसी विधि के अधीन प्रतिषिद्ध है :

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परंतु समुचित सरकार या उसके अभिकरण द्वारा किसी सूचना के संबंध में जिसे तत्समय प्रवृत्त किसी विधि के अधीन प्रतिषिद्ध किया गया है, की गई कोई अधिसूचना किसी अभिकरण द्वारा ऐसे जारी की जाएगी जैसे समुचित सरकार द्वारा अधिसूचित किया जाए:

परंतु यह और कि इस खंड के अधीन विनिर्दिष्ट सूचना और प्रवर्गों के भीतर स्वैच्छिक आधार पर खंड (ख) के अधीन या ऐसे मध्यवर्ती द्वारा उपनियम (2) के प्राप्त शिकायत आधार पर किसी सूचना डाटा या संसूचना या संपर्क पहुंच को हटाना या असमर्थ करना अधिनियम की धारा 79 की उपधारा (2) के खंड (क) या खंड (ख) की शर्तों का उल्लंघन नहीं होगा।

परंतु यह भी कि किसी सूचना, डाटा या संचार संपर्क, जो इस खंड के अधीन सूचना के प्रवर्गों के अधीन विनिर्दिष्ट है, का खंड (ख) के अधीन हटाया जाना स्वैच्छिक आधार पर या ऐसे मध्यवर्ती द्वारा उपनियम (2) के अधीन प्राप्त शिकायत के आधार पर होगा, या अधिनियम की धारा 79 की उपधारा (2) के खंड (क) या खंड (ख) के अधीन किन्हीं शर्तों का उल्लंघन नहीं होगा।

(ड) अस्थायी सूचना का अस्थायी या अल्पकालिक या मध्यवर्ती भंडारण जो किसी मध्यवर्ती द्वारा स्वतः उसके नियंत्रण के अधीन किसी कंप्यूटर संसाधन या उस कंप्यूटर संसाधन के अभिन्न अभिलक्षण के रूप में किया जाता है जिसमें किसी मानव का कोई कृत्य करना अंतर्वलित नहीं है जो स्वचालित है जो आगे पारेषण के लिए एल्गोरिदमिक संपादकीय नियंत्रण है या किसी अन्य कंप्यूटर संसाधन से संपर्क है, खंड (घ) के अधीन निर्दिष्ट सूचना का होस्ट किया जाना, भंडारण किया जाना या प्रकाशन नहीं होगा ;

(च) मध्यवर्ती अपने उपयोक्ताओं को आवधिक रूप से कम से कम वर्ष में एक बार अपने नियमों और विनियमों, निजता नीति या उपयोक्ता करार या, यथास्थिति, अपने नियमों और विनियमों, निजता नीति या उपयोक्ता करार में किसी परिवर्तन से सूचित करेगा ;

(छ) खंड (घ) के अधीन वास्तविक जानकारी प्राप्त होने पर खंड (ख) के अधीन स्वैच्छिक आधार पर उल्लंघन या उपनियम (2) के अधीन प्राप्त शिकायत के आधार पर जब किसी सूचना को हटाया जाता है या उस तक पहुंच को अशक्त किया जाता है, मध्यवर्ती किसी भी रीति में साक्ष्य को नष्ट किए बिना ऐसी सूचना और सहबद्ध अभिलेखों का अन्वेषण के प्रयोजनों के एक सौ अस्सी दिन तक या ऐसी दीर्घतर अवधि के लिए परिरक्षण करेगा जैसा कि न्यायालय द्वारा या सरकारी अभिकरणों द्वारा जो विधिपूर्वक प्राधिकृत है, अपेक्षा की जाए;

(ज) जब कोई मध्यवर्ती किसी कंप्यूटर संसाधन पर रजिस्ट्रीकरण के लिए किसी सूचना का संग्रहण करता है, वह उसकी सूचना को, यथास्थिति, रजिस्ट्रेशन के किसी रद्दकरण या प्रतिसंहारण के पश्चात् एक सौ अस्सी दिन की अवधि के लिए प्रतिधारित करेगा;

(झ) मध्यवर्ती अपने कंप्यूटर संसाधनों और उनमें अंतर्विष्ट सूचना को सुरक्षित करने के लिए सभी युक्तियुक्त उपाय करेगा, युक्तियुक्त सुरक्षा पद्धतियों और प्रक्रियाओं का अनुसरण करेगा जैसाकि सूचना प्रौद्योगिकी (युक्तियुक्त सुरक्षा पद्धतियां और प्रक्रिया तथा संवेदनशील वैयक्तिक सूचना) नियम, 2011 में यथाविहित है;

(ञ) मध्यवर्ती यथासंभव शीघ्र किंतु किसी आदेश की प्राप्ति से बहत्तर घंटे के अपश्चात् अपने नियंत्रणाधीन या कब्जे की सूचना को या सहायता को सरकारी अभिकरण को उपलब्ध कराएगा जो विधिपूर्वक पहचान का सत्यापन करने या तत्समय प्रवृत्त किसी विधि के अधीन या साइबर सुरक्षा घटनाओं, अपराधों का निवारण करने, पता लगाने, जांच करने या अभियोजन के लिए जांच करने या संरक्षण या साइबर सुरक्षा कार्यकलापों के लिए प्राधिकृत है :

परंतु ऐसा कोई आदेश लिखित में होगा जिसमें स्पष्ट रूप से, यथास्थिति, सूचना या सहायता की वांछा करने का कथन किया जाएगा;

(ट) मध्यवर्ती जानबूझकर कंप्यूटर संसाधन में तकनीकी संरचना को तैनात या प्रतिस्थापित या उपांतरित नहीं करेगा या ऐसे किसी कृत्य में पक्षकार नहीं बनेगा जो कंप्यूटर संसाधन के प्रचालन के सामान्य प्रक्रम को, जो उसके द्वारा किए जाना संभावित है, परिवर्तित करे या उसमें परिवर्तित करने का सामर्थ्य हो, जिससे तत्समय प्रवृत्त किसी विधि का परिवंचन हो:

परंतु मध्यवर्ती कंप्यूटर संसाधन और उसमें अंतर्विष्ट सूचना को सुरक्षित करने के कृत्यों का निष्पादन करने के प्रयोजन के लिए प्रौद्योगिकीय साधन विकसित कर सकेगा, उत्पादित कर सकेगा, वितरित कर सकेगा या नियोजित कर सकेगा।

TRUE COPY

(ठ) मध्यवर्ती साइबर सुरक्षा की घटनाओं की रिपोर्ट करेगा और संबंधित सूचना को भारतीय कंप्यूटर आपात स्थिति प्रतिक्रिया दल के साथ सूचना प्रौद्योगिकी (भारतीय कंप्यूटर आपात स्थिति प्रतिक्रिया दल और कृत्य और कर्तव्य निष्पादन रीति) नियम, 2013 में उल्लिखित यथाविहित नीतियों और प्रक्रियाओं के अनुसार सूचना को बाटेगा।

(2) मध्यवर्ती का शिकायत निपटान तंत्र: (क) मध्यवर्ती प्रमुख रूप से अपनी वेबसाइट पर मोबाइल आधारित अनुप्रयोग पर या दोनों पर शिकायत अधिकारी का नाम और संपर्क ब्यौरों के साथ उस तंत्र को प्रकाशित करेगा जिसके द्वारा कोई उपयोक्ता या पीड़ित इस नियम 5 के उपबंधों के किसी उल्लंघन को या उसके द्वारा उपलब्ध कराए गए कंप्यूटर संसाधनों से संबंधित मामलों के संबंध में शिकायत कर सकेगा तथा शिकायत अधिकारी निम्नलिखित के उत्तरदायी होगा अर्थात्:-

(i) 24 घंटों के भीतर परिवाद को अभिस्वीकार करेगा और इसकी प्राप्ति की तारीख से 15 दिन के भीतर ऐसे परिवाद का निपटान करेगा;

(ii) समुचित सरकार, किसी सक्षम प्राधिकारी या सक्षम अधिकारिता रखने वाले न्यायालय द्वारा जारी किसी आदेश, नोटिस या निदेश की प्राप्ति और अभिस्वीकृति देगा।

(ख) मध्यवर्ती, किसी अन्तर्वस्तु के संबंध में, जो प्रथम दृष्ट्या ऐसी प्रकृति की सामग्री है जो ऐसे व्यष्टि के निजी हिस्से को उद्घाटित करती है, ऐसे व्यष्टि को पूर्णतः या अंशतः नग्न दर्शित करती है अथवा ऐसे व्यष्टि को किसी यौन कृत्य या व्यवहार में दर्शित या चित्रित करती है, अथवा इलैक्ट्रॉनिक रूप में प्रतिरूपण की प्रकृति की है, जिसके अन्तर्गत ऐसे व्यष्टि की कृत्रिम रूप से मोर्फड छवियां भी हैं, इस उप-नियम के अधीन इस निमित्त व्यष्टिक या किसी व्यक्ति द्वारा की गई शिकायत की प्राप्ति के 24 घंटे के भीतर ऐसी अन्तर्वस्तु को हटाने या उस तक पहुंच को असमर्थ बनाने के लिए सभी युक्तियुक्त और व्यवहार्य उपाय करेगा जो इसके द्वारा होस्ट, भंडारित, प्रकाशित या संचारित की जाती है:

(ग) मध्यवर्ती इस उप-नियम के खंड (ख) के अधीन शिकायतों की प्राप्ति के लिए एक क्रियाविधि का कार्यान्वयन करेगा, जो ऐसी अन्तर्वस्तु या संचार लिंक के संबंध में, यथाआवश्यक ब्यौरों ऐसे व्यक्ति को प्रदान करने में समर्थ बना सके।

4. महत्वपूर्ण सोशल मीडिया मध्यवर्ती द्वारा बरती जाने वाली अतिरिक्त सम्यक् सावधानी - (1) नियम 3 के अधीन बरती जाने वाली सम्यक् सावधानी के अतिरिक्त, महत्वपूर्ण सोशल मीडिया मध्यवर्ती, नियम 2 के उप-नियम (1) के खंड (फ) में निर्दिष्ट अवसीमा की अधिसूचना की तारीख से तीन मास के भीतर, अपने कर्तव्यों का निर्वहन करते समय निम्नलिखित अतिरिक्त सम्यक् सावधानी बरतेगा, अर्थात् :-

(क) एक मुख्य अनुपालन अधिकारी की नियुक्ति करेगा जो अधिनियम और उसके अधीन बनाए गए नियमों का अनुपालन सुनिश्चित करने के लिए उत्तरदायी होगा और उस मध्यवर्ती द्वारा उपलब्ध करवायी गई या होस्ट की गई कोई सुसंगत तृतीय पक्षकार सूचना, डाटा या संचार लिंक से संबंधित किन्हीं कार्यवाहियों के लिए दायी होगा, जहां वह यह सुनिश्चित करने में असफल रहता है कि ऐसा मध्यवर्ती अधिनियम और उसके अधीन बनाए गए नियमों के अधीन अपने कर्तव्यों का निर्वहन करते समय सम्यक् सावधानी बरतता है:

परन्तु अधिनियम और उसके अधीन बनाए गए नियमों के अधीन सुनवाई का अवसर दिए बिना ऐसे महत्वपूर्ण सोशल मीडिया मध्यवर्ती पर कोई दायित्व अधिरोपित नहीं किया जा सकेगा।

स्पष्टीकरण - इस खंड के प्रयोजनों के लिए, "मुख्य अनुपालन अधिकारी", पद से ऐसे मध्यवर्ती का महत्वपूर्ण प्रबंधकीय कार्मिक या ऐसा अन्य ज्येष्ठ कर्मचारी अभिप्रेत है, जो भारत में निवासी है;

(ख) विधि या उसके अधीन बनाए गए नियमों के उपबंधों के अनुसार विधि प्रवर्तन अभिकरणों और अधिकारियों के आदेशों या अध्यक्षों का अनुपालन सुनिश्चित करने के लिए उनके साथ 24x7 समन्वय करने हेतु सम्पर्क के लिए एक नोडल व्यक्ति नियुक्त करेगा।

स्पष्टीकरण - इस खंड के प्रयोजनों के लिए, "सम्पर्क के लिए नोडल व्यक्ति", पद से मुख्य अनुपालन अधिकारी से भिन्न, मध्यवर्ती का कोई कर्मचारी अभिप्रेत है, जो भारत में निवासी है;

(ग) निवासी शिकायत अधिकारी नियुक्त करेगा जो खंड (ख) के अधीन रहते हुए, नियम 3 के उप-नियम (2) में निर्दिष्ट कृत्यों के लिए उत्तरदायी होगा।

TRUE COPY

स्पष्टीकरण - इस खंड के प्रयोजनों के लिए, "निवासी शिकायत अधिकारी", पद से महत्वपूर्ण सोशल मीडिया मध्यवर्ती का कोई कर्मचारी अभिप्रेत है, जो भारत में निवासी है;

(घ) प्राप्त शिकायतों और उन पर की गई कार्रवाई के ब्यौरे, और विनिर्दिष्ट संचार लिंक या सूचना के भागों की संख्या कि मध्यवर्ती ऑटोमेटेड उपकरण उपयोग करते हुए संचालित किसी पूर्व सक्रिय मानिटरी के अनुसरण में पहुंच को हटा दिया है या उसे असमर्थ बना दिया है, अथवा कोई अन्य सुसंगत सूचना जो विनिर्दिष्ट की जाए, उल्लिखित करते हुए प्रत्येक छह मास में आवधिक अनुपालन रिपोर्ट प्रकाशित करेगा।

(2) प्राथमिक रूप से संदेश की प्रकृति की सेवाएं प्रदान करने वाला महत्वपूर्ण सोशल मीडिया मध्यवर्ती सूचना के पहले उद्भवकर्ता की पहचान इसके कम्प्यूटर संसाधन पर समर्थ बनाएगा जैसा सक्षम अधिकारिता वाले न्यायालय द्वारा पारित न्यायिक आदेश द्वारा या सूचना प्रौद्योगिकी (सूचना के अवरोध, मानिटरी और अकूटकरण के लिए प्रक्रिया और रक्षोपाय) नियम, 2009 के अनुसार सक्षम प्राधिकारी द्वारा धारा 69 के अधीन पारित आदेश द्वारा अपेक्षित हो, जो इलैक्ट्रॉनिक रूप में ऐसी सूचना की प्रति द्वारा समर्थित होगा :

परन्तु कोई आदेश, भारत की संप्रभुता और अखंडता, राज्य की सुरक्षा, विदेशी राज्यों के साथ मैत्रीपूर्ण संबंध, या लोक व्यवस्था या उपरोक्त से संबंधित अपराध को उकसाने अथवा पांच वर्ष से अन्यून अवधि के लिए दंडनीय बलात्कार, यौन चित्रित सामग्री या बच्चों के साथ यौन अपराधों के संबंध में अपराध के निवारण, खोज, अन्वेषण, अभियोजन या दंड के प्रयोजनों के लिए ही पारित किया जाएगा:

परन्तु यह और कि उन मामलों में कोई आदेश पारित नहीं किया जाएगा जहां सूचना के उद्भवकर्ता की पहचान करने में कम अन्तर्भेदी साधन प्रभावी हैं:

परन्तु यह भी कि प्रथम उद्भवकर्ता की पहचान करने के लिए आदेश के अनुपालन में, किसी महत्वपूर्ण सोशल मीडिया मध्यवर्ती से किसी इलैक्ट्रॉनिक संदेश की अन्तर्वस्तु, प्रथम उद्भवकर्ता से संबंधित कोई अन्य सूचना, या इसके अन्य उपयोक्ताओं से संबंधित कोई अन्य सूचना प्रकट करना अपेक्षित नहीं होगा :

परन्तु यह भी कि जहां किसी मध्यवर्ती के कम्प्यूटर संसाधन पर किसी सूचना का प्रथम उद्भवकर्ता भारत के राज्यक्षेत्र के बाहर अवस्थित है, तो भारत के राज्यक्षेत्र के भीतर उस सूचना का प्रथम उद्भवकर्ता इस खंड के प्रयोजन के लिए सूचना का प्रथम उद्भवकर्ता समझा जाएगा।

(3) किसी महत्वपूर्ण सोशल मीडिया मध्यवर्ती—

(क) जो किसी ऐसी रीति में प्रत्यक्ष वित्तीय फायदे के लिए, इसकी दृश्यता या विशिष्टता: बढ़ाता है या उस सूचना के प्राप्तकर्ता को लक्षित करता है;

(ख) जिसका इसके पास प्रतिलिप्याधिकार है या अनन्य और विशिष्ट अनुज्ञप्ति रखता है या जिसके संबंध में इसने कोई ऐसी संविदा की है जो प्रत्यक्ष या अप्रत्यक्ष रूप से ऐसे सोशल मीडिया मध्यवर्ती के कम्प्यूटर संसाधन के माध्यम से प्रदान की गई सूचना से भिन्न किन्हीं साधनों के माध्यम से उस सूचना का प्रकाशन या पारेषण निर्बंधित करती है,

के लिए किसी सूचना के संबंध में कोई सेवा प्रदान करता है या किसी अन्य व्यक्ति की ओर से इसके कम्प्यूटर संसाधन पर वह सूचना पारेषित करता है, यथास्थिति, विज्ञापित, विपणित, प्रयोजित, स्वामित्वाधीन या अनन्यतः नियंत्रित रूप में इसके उपयोक्ताओं को उस सूचना को स्पष्ट रूप से पहचानयोग्य बनाएगा या उसको उचित रीति में उस रूप में पहचान योग्य बनाएगा।

(4) कोई महत्वपूर्ण सोशल मीडिया मध्यवर्ती प्रौद्योगिकी आधारित उपाय, जिसके अन्तर्गत उस सूचना जो चाहे सुव्यक्त हो या विवक्षित, बलात्कार, बच्चों का लैंगिक शोषण या आचरण को किसी भी रूप में चित्रित करने वाले किसी कृत्य या अनुरूपण या कोई अन्य सूचना जो उस सूचना की अन्तर्वस्तु के ठीक समान है जिसे नियम 3 के उप-नियम (1) के खंड (घ) के अधीन ऐसे मध्यवर्ती के कम्प्यूटर संसाधन पर पूर्व में हटा दिया गया है या उस तक पहुंच को असमर्थ किया गया है, को चित्रित करने वाली पूर्व सक्रिय सूचना को पहचानने वाले ऑटोमेटेड उपकरण या अन्य तंत्र भी हैं, करने का प्रयत्न करेगा और ऐसी सूचना तक पहुंच का प्रयास करने वाले किसी उपयोक्ता को नोटिस प्रदर्शित करेगा कि ऐसी सूचना को इस उप-नियम में निर्दिष्ट प्रवर्गों के अधीन मध्यवर्ती द्वारा पहचान की गई है :

परन्तु इस उप-नियम के अधीन मध्यवर्ती द्वारा किए गए उपाय, वाक् स्वातंत्र्य और अभिव्यक्ति ऐसे मध्यवर्ती के कम्प्यूटर संसाधन पर उपयोक्ता की निजता, जिसके अन्तर्गत तकनीकी उपायों के समुचित उपयोग के माध्यम से संरक्षित हित भी हैं, के हितों का ध्यान रखते हुए समानुपाती होंगे:

परन्तु यह और कि ऐसा मध्यवर्ती इस उप-नियम के अधीन किए गए उपायों की समुचित मानवीय अन्वेक्षा के लिए तंत्र कार्यान्वित करेगा, जिसके अन्तर्गत ऐसे मध्यवर्ती द्वारा लगाए गए किन्हीं आटोमेटेड उपकरणों का आवधिक पुनर्विलोकन भी है:

परन्तु यह भी कि इस उप-नियम के अधीन आटोमेटेड उपकरणों का पुनर्विलोकन, ऐसे उपकरणों की सटीकता और ऋजुता, ऐसे उपकरणों में पक्षपात और विभेद की प्रवृत्ति और ऐसे उपकरणों की निजता और सुरक्षा पर प्रभाव का ध्यान रखते हुए आटोमेटेड उपकरणों का मूल्यांकन करेगा।

(5) महत्वपूर्ण सोशल मीडिया तंत्र में मध्यवर्ती का इसको संबोधित संसूचना प्राप्त करने के प्रयोजनों के लिए, यथास्थिति, इसकी वेबसाइट पर या मोबाइल आधारित इंटरनेट एप्लीकेशन पर या दोनों पर प्रकाशित भारत में भौतिक सम्पर्क पता होगा।

(6) महत्वपूर्ण सोशल मीडिया मध्यवर्ती, नियम 3 के उपनियम (2) अधीन परिवादों की प्राप्ति तथा इस नियम के अधीन उपबंधों के उल्लंघन के संबंध में शिकायतों की प्राप्ति के लिए एक समुचित तंत्र कार्यान्वित करेगा, जो ऐसे मध्यवर्ती द्वारा प्राप्त प्रत्येक परिवाद या शिकायत के लिए एक विशिष्ट टिकट संख्या प्रदान करके ऐसे परिवाद या शिकायत की प्राप्ति को जांचने के लिए परिवादी को समर्थ बनाएगी:

परन्तु ऐसा मध्यवर्ती, युक्तियुक्त सीमा तक, इसके द्वारा प्राप्त परिवाद या शिकायत के अनुसरण में ऐसे मध्यवर्ती द्वारा की गई या न की गई किसी कार्यवाही के लिए परिवादी को कारण बताएगा।

(7) महत्वपूर्ण सोशल मीडिया मध्यवर्ती, उन उपयोक्ताओं को जो भारत से उनकी सेवाओं के लिए रजिस्टर करते हैं या भारत में उनकी सेवाओं का उपयोग करते हैं, स्वैच्छया समुचित तंत्र का उपयोग करके उनके खाते सत्यापित करने में समर्थ बनाएगा, जिसके अन्तर्गत ऐसे उपयोक्ताओं की सक्रिय भारतीय मोबाइल संख्या भी है, और जहां कोई उपयोक्ता स्वैच्छया अपना खाता सत्यापित करता है वहां ऐसे उपयोक्ता को सत्यापन का प्रदर्शनीय और दृश्यमान चिन्ह प्रदान किया जाएगा, जो सेवा के सभी उपयोक्ताओं को दृश्यमान होगा:

परन्तु इस उप-नियम के अधीन सत्यापन के प्रयोजन के लिए प्राप्त कोई सूचना किसी अन्य प्रयोजन के लिए तब तक उपयोग नहीं की जाएगी, जब तक उपयोक्ता ऐसे उपयोग के लिए अभिव्यक्त रूप से सहमति नहीं देता है।

(8) जहां कोई महत्वपूर्ण सोशल मीडिया मध्यवर्ती, स्वप्रेरणा से नियम 3 के उप-नियम (1) के खंड (ख) के अधीन किसी सूचना, डाटा या संसूचना लिंक को हटाता है या उस तक पहुंच को असमर्थ बनाता है, तो ऐसा मध्यवर्ती,—

(क) यह सुनिश्चित करेगा कि उस समय के पूर्व जब ऐसा मध्यवर्ती ऐसी पहुंच को हटाता है या उसे असमर्थ बनाता है तो जिसने ऐसे उपयोक्ता को दिया है, जिसने इसकी सेवाएं उपयोग करते हुए सूचना, डाटा या संसूचना लिंक को सृजित, अपलोड, साझा, प्रसारित या उपांतरित किया है, को, की जा रही कार्रवाई और ऐसी कार्रवाई के आधारों या कारणों को स्पष्ट करते हुए, अधिसूचित करेगा;

(ख) यह सुनिश्चित करेगा कि ऐसे उपयोक्ता को, जिसने इसकी सेवाएं उपयोग करते हुए सूचना को सृजित, अपलोड, साझा, प्रसारित या उपांतरित किया है, ऐसे मध्यवर्ती द्वारा की जा रही कार्रवाई का विरोध करने के लिए पर्याप्त और युक्तियुक्त अवसर प्रदान किया जाए तथा ऐसी सूचना, डाटा या संसूचना लिंक तक पहुंच को पुनः आरम्भ करने के लिए निवेदन करेगा, जो युक्तियुक्त समय के भीतर विनिश्चित की जा सकेगी;

(ग) यह सुनिश्चित करेगा कि ऐसे मध्यवर्ती का निवासी शिकायत अधिकारी, खंड (ख) के अधीन उपयोक्ता द्वारा उठाए गए किसी विवाद के समाधान के लिए तंत्र का समुचित निरीक्षण करता है।

(9) मंत्रालय किसी महत्वपूर्ण सोशल मिडिया से ऐसी अतिरिक्त जानकारी की मांग कर सकेगा जो वह इस भाग के प्रयोजनों के लिए आवश्यक समझे।

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5. समाचार और समसामयिक मामलों की अन्तर्वस्तु के संबंध में मध्यवर्ती द्वारा पालन की जाने वाली अतिरिक्त सम्यक् सावधानी - यथाअनुयोज्य, नियम 3 और नियम 4 का पालन करने के अतिरिक्त, कोई मध्यवर्ती, यथास्थिति, अपनी वेबसाइट या मोबाइल आधारित एप्लिकेशन पर या दोनों पर समाचार और समसामयिक मामलों की अन्तर्वस्तु के प्रकाशकों को सूचित करते हुए एक स्पष्ट और संक्षिप्त कथन प्रकाशित करेगा कि सभी उपयोक्ताओं के लिए सेवा के सामान्य निबंधनों के अतिरिक्त, ऐसे प्रकाशक, नियम 18 के अधीन यथाअपेक्षित, मंत्रालय को ऐसे मध्यवर्ती की सेवाओं पर इसके उपयोक्ता खातों के ब्यौरे प्रस्तुत करेंगे :

परन्तु कोई मध्यवर्ती ऐसे प्रकाशकों को, जिन्होंने नियम 18 के अधीन ऐसी सूचना प्रदान की है, प्रकाशक के रूप में सत्यापन का प्रदर्शनीय और दृश्यमान चिन्ह प्रदान करेगा, जो सेवा के सभी उपयोक्ताओं को दृश्यमान होगा।

स्पष्टीकरण - यह नियम केवल समाचार और समसामयिक मामलों की अन्तर्वस्तु से संबंधित है और इसका प्रशासन सूचना और प्रसारण मंत्रालय द्वारा किया जाएगा।

6. अन्य मध्यवर्ती की अधिसूचना - (1) मंत्रालय, आदेश द्वारा, लेखबद्ध किए जाने वाले कारणों से, किसी मध्यवर्ती से जो कोई महत्वपूर्ण सोशल मीडिया मध्यवर्ती नहीं हैं, नियम 4 के अधीन उल्लिखित सभी या किन्हीं बाध्यताओं का अनुपालन करने की अपेक्षा कर सकेगा, यदि उस मध्यवर्ती की सेवाएं ऐसी रीति में सूचना का प्रकाशन या पारेषण अनुज्ञात करती हैं जो भारत की संप्रभुता और निष्ठा, राज्य की सुरक्षा, विदेशी राज्यों से मैत्रीपूर्ण संबंध या लोक व्यवस्था को क्षति का महत्वपूर्ण जोखिम सृजित करती हो।

(2) उपनियम (1) में निर्दिष्ट क्षति के महत्वपूर्ण जोखिम का निर्धारण ऐसे मध्यवर्ती की सेवाओं की प्रकृति का ध्यान रखते हुए किया जाएगा, और यदि वे सेवाएं निम्नलिखित अनुज्ञात करती हैं, -

(क) चाहे, इस बात के होते हुए भी कि यह मध्यवर्ती का प्राथमिक उद्देश्य ही है, उपयोक्ताओं के बीच अन्योन्यक्रिया; और

(ख) अन्य उपयोक्ताओं की बड़ी संख्या को सूचना का प्रकाशन या पारेषण जिसका परिणाम ऐसी सूचना का व्यापक प्रसारण होना संभाव्य होगा।

(3) इस नियम के अधीन कोई आदेश, यथास्थिति, किसी वेबसाइट के कंप्यूटर संसाधन या मोबाइल आधारित अप्लिकेशन या दोनों के विनिर्दिष्ट भाग के संबंध में जारी किया जा सकेगा, यदि ऐसा विनिर्दिष्ट भाग किसी मध्यवर्ती की प्रकृति का है :

परन्तु जहां ऐसा आदेश जारी किया जाता है, वहां किसी अस्तित्व से उसके कंप्यूटर संसाधन के विनिर्दिष्ट भाग के संबंध में, जो मध्यवर्ती की प्रकृति का है, नियम 4 के अधीन उल्लिखित सभी या किन्हीं बाध्यताओं का पालन करने की अपेक्षा की जा सकेगी।

7. नियमों का अननुपालन - जहां मध्यवर्ती इन नियमों का पालन करने में असमर्थ रहता है, वहां अधिनियम की धारा 79 की उपधारा (1) के उपबंध ऐसे मध्यवर्ती को लागू नहीं होंगे और मध्यवर्ती तत्समय प्रवृत्त किसी अन्य विधि के अधीन दंड का भागी होगा जिसमें अधिनियम के उपबंध तथा भारतीय दंड उपबंध भी हैं।

भाग 3

डिजिटल या ऑनलाईन मीडिया के संबंध में आचार संहिता तथा प्रक्रिया और रक्षोपाय

8. इस भाग का लागू होना - (1) इस भाग के अधीन बनाए गए नियम निम्नलिखित व्यक्तियों या अस्तित्वों को लागू होंगे, अर्थात :-

(क) समाचार और समसामयिक मामलों की अंतर्वस्तु के प्रकाशक;

(ख) ऑनलाईन चयनित अंतर्वस्तु के प्रकाशक; और

इसका प्रशासन सूचना और प्रसारण मंत्रालय, भारत सरकार द्वारा किया जाएगा, जिसे इस भाग में "मंत्रालय" के रूप में निर्दिष्ट किया जाएगा;

परन्तु इस भाग अधीन बनाए गए नियम, नियम 15 और नियम 16 के प्रयोजनों के लिए मध्यवर्तियों को लागू होंगे।

(2) इस भाग के अधीन बनाए गए नियम प्रकाशकों को लागू होंगे, जहां,-

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- (क) ऐसा प्रकाशक भारत के राज्यक्षेत्र में प्रचालन करता है; या
(ख) ऐसा प्रकाशक भारत में इसकी अंतर्वस्तु उपलब्ध करवाने का व्यवस्थित कारबार क्रियाकलाप संचालित करता है।

स्पष्टीकरण— इस नियम के प्रयोजनों के लिए, -

- (क) कोई प्रकाशक भारत के राज्यक्षेत्र में प्रचालन करने वाला समझा जाएगा, जहां ऐसा प्रकाशक भारत के राज्यक्षेत्र में भौतिक उपस्थिति रखता है;
(ख) "व्यवस्थित क्रियाकलाप" से कोई संरचनात्मक या संगठित क्रियाकलाप अभिप्रेत है जिसमें योजना, पद्धति, निरंतरता या अध्यवसाय अंतर्वलित है।
(3) इस भाग के अधीन बनाए गए नियम तत्समय प्रवृत्त किसी अन्य विधि के उपबंधों के अतिरिक्त होंगे ना कि उनके अल्पीकरण में और ऐसी विधियों के अधीन उपलब्ध कोई उपचार, जिसके अंतर्गत सूचना प्रौद्योगिकी (जनता द्वारा सूचना तक पहुंच को अवरूद्ध करने के लिए प्रक्रिया और रक्षोपाय) नियम 2009 भी हैं।

9. संहिता का पालन और अनुसरण— (1) नियम 8 में निर्दिष्ट कोई प्रकाशक इन नियमों से उपाबद्ध परिशिष्ट में अधिकथित आचार संहिता का पालन और अनुसरण करेगा।

(2) इन नियमों में अंतर्विष्ट किसी बात के होते हुए भी, नियम 8 में निर्दिष्ट कोई प्रकाशक जो तत्समय प्रवृत्त किसी विधि का उल्लंघन करता है, वह ऐसी विधि में यथा उपबंधित पारिणामिक कार्रवाई के लिए भी दायी होगा, जिसका इस प्रकार उल्लंघन किया गया है।

(3) भारत के राज्यक्षेत्र में प्रचालन कर रहे प्रकाशकों के लिए आचार संहिता का पालन और अनुसरण सुनिश्चित करने के लिए, तथा इस भाग के अधीन प्रकाशकों के संबंध में की गई शिकायतों के समाधान के लिए, निम्नानुसार त्रिस्तरीय संरचना होगी -

- (क) स्तर 1 - प्रकाशकों द्वारा स्वतः विनियमन;
(ख) स्तर 2 - प्रकाशकों के स्वतः विनियामक निकायों द्वारा स्वतः विनियमन;
(ग) स्तर 3 - केन्द्रीय सरकार द्वारा निरीक्षण क्रियाविधि।

अध्याय 1

शिकायत समाधान क्रियाविधि

10. शिकायत प्रस्तुत और प्रक्रियागत करना— (1) आचार संहिता के संबंध में प्रकाशक द्वारा प्रकाशित अंतर्वस्तु के बारे में शिकायत करने वाला कोई व्यक्ति नियम 11 के अधीन प्रकाशक और स्थापित शिकायत क्रियाविधि पर अपनी शिकायत प्रस्तुत कर सकेगा।

(2) प्रकाशक, शिकायत के सूचना और अभिलेख के प्रस्तुत किए जाने चौबीस घंटों के भीतर शिकायतकर्ता के फायदे के लिए शिकायत की अभिस्वीकृति सृजित और जारी करेगा।

(3) शिकायत के समाधान की रीति के लिए निम्नलिखित व्यवस्था होगी -

(क) प्रकाशक शिकायत का समाधान करेगा और शिकायत के रजिस्ट्रीकरण के पंद्रह दिन के भीतर अपने विनिश्चय के बारे में शिकायतकर्ता को सूचित करेगा।

(ख) यदि प्रकाशक का विनिश्चय नियत पंद्रह दिन के भीतर शिकायतकर्ता को संसूचित नहीं किया जाता है तो शिकायत को स्वतः विनियामक निकाय के उच्च स्तर पर भेज दिया जाएगा जिसका प्रकाशक एक सदस्य है।

(ग) जहां शिकायतकर्ता प्रकाशक के विनिश्चय से संतुष्ट नहीं है, तो वह स्वतः विनियामक निकाय को ऐसा विनिश्चय प्राप्त होने के पंद्रह दिन के भीतर अपील कर सकेगा जिसका ऐसा प्रकाशक सदस्य है।

(घ) स्वतः विनियामक निकाय खंड (ख) और खंड (ग) में विनिर्दिष्ट शिकायत का समाधान करेगा, और प्रकाशक को अपना विनिश्चय मार्गदर्शन या सलाह के रूप में भेजेगा तथा पंद्रह दिन के अवधि के भीतर शिकायतकर्ता को ऐसे विनिश्चय की सूचना देगा।

TRUE COPY

(ड) जहाँ शिकायतकर्ता स्वतः विनियामक निकाय के विनिश्चय से संतुष्ट नहीं है, तो वह ऐसे विनिश्चय के पंद्रह दिन के भीतर समाधान के लिए नियम 13 में निर्दिष्ट निरीक्षण क्रियाविधि को अपील कर सकेगा।

अध्याय 2

स्वतः विनियामक क्रियाविधि - स्तर 1

11. स्वतः विनियामक क्रियाविधि - स्तर 1 - (1) प्रकाशक स्वतः विनियामक क्रियाविधि के स्तर 1 पर होगा।

(2) प्रकाशक,—

(क) एक शिकायत प्रतितोषण क्रियाविधि स्थापित करेगा और भारत में अवस्थित एक शिकायत अधिकारी नियुक्त करेगा, जो उसके द्वारा प्राप्त शिकायतों के प्रतितोषण के लिए उत्तरदायी होगा।

(ख) इसकी शिकायत प्रतितोषण क्रियाविधि से संबंधित संपर्क के ब्यौरे प्रदर्शित करेगा, शिकायत अधिकारी का नाम और संपर्क के ब्यौरे, यथास्थिति, इसके वेबसाइट के किसी समुचित स्थान पर या अंतरापृष्ठ पर प्रदर्शित करेगा।

(ग) ऐसी प्रत्येक शिकायत की प्राप्ति के पंद्रह दिनों के भीतर शिकायत अधिकारी द्वारा लिए गए विनिश्चय को सुनिश्चित करेगा और विनिर्दिष्ट समय के भीतर उसे शिकायतकर्ता को संसूचित करेगा।

(घ) नियम 12 में यथा-निर्दिष्ट किसी स्वतः विनियामक निकाय का सदस्य होगा और इसके निबंधन और शर्तों का पालन करेगा।

(3) शिकायत अधिकारी—

(क) आचार संहिता से संबंधित किसी शिकायत को प्राप्त करने के लिए संपर्क केंद्र होगा;

(ख) शिकायतकर्ता, स्वतः विनियामक निकाय और मंत्रालय के साथ अन्योन्यक्रिया के लिए नोडल केंद्र के रूप में कार्य करेगा।

(4) आनलाइन क्यूरेटेड अंतर्वस्तु अनुसूची में निर्दिष्ट प्रवर्गों में ऐसे अंतर्वस्तु के प्रकाशक द्वारा वर्गीकृत किया जाएगा, ऐसी अंतर्वस्तु के संदर्भ, विषय-वस्तु, स्वर, प्रभाव और लक्ष्य दर्शक, उक्त अनुसूची में विनिर्दिष्ट रीति में सुसंगत अंतर्वस्तु विवरणकर्ता के किसी निर्धारण पर आधारित ऐसे प्रवर्गों के लिए सुसंगत दर से संबंधित होगा।

(5) आनलाइन क्यूरेटेड अंतर्वस्तु का प्रत्येक प्रकाशक किसी आनलाइन क्यूरेटेड अंतर्वस्तु की दर को प्रकाशित करेगा और यथास्थिति, ऐसी रीति में किसी समुचित स्थान पर इसके उपयोक्ताओं को सुसंगत अंतर्वस्तु विवरणकर्ता को प्रमुख रूप से स्पष्टीकरण देगा ताकि ऐसे उपयोक्ता को ऐसी अंतर्वस्तु पर पहुंचने से पहले इस सूचना की जानकारी हो।

अध्याय 3

स्वतः विनियामक क्रियाविधि - स्तर 2

12. स्वतः विनियामक निकाय—(1) प्रकाशक या उसके सहयोगियों द्वारा गठित कोई स्वतंत्र निकाय, प्रकाशकों का एक या अधिक स्वयं विनिमयकारी निकाय हो सकेगा।

(2) उपनियम (1) में निर्दिष्ट स्वयं विनिमयकारी निकाय की अध्यक्षता उच्चतम न्यायालय या किसी उच्च न्यायालय के सेवानिवृत्त न्यायाधीश या मीडिया, प्रसारण, मनोरंजन, बाल अधिकारी, मानव अधिकारी से किसी स्वतंत्र प्रतिष्ठित व्यक्ति द्वारा की जाएगी और इसके अन्य सदस्य मीडिया, प्रसारण, मनोरंजन, बाल अधिकार, मानव अधिकार और ऐसे अन्य सुसंगत क्षेत्रों के छह से अनधिक विशेषज्ञ होंगे।

(3) स्वतः विनियामक निकाय उपनियम (2) के अनुसार अपने गठन के पश्चात्, मंत्रालय इन नियमों की अधिसूचना की तारीख से तीस दिनों की अवधि के भीतर और जहाँ कोई स्वतः विनियामक निकाय, जो उसके गठन की तारीख से तीस दिनों के भीतर ऐसी अवधि के पश्चात् गठित की जाती है, रजिस्टर करेगा :

परंतु स्वतः विनियामक निकाय को रजिस्ट्रीकरण प्रदान करने से पहले मंत्रालय अपना यह समाधान करेगा कि स्वतः विनियामक निकाय का गठन उपनियम (2) के अनुसार किया गया है और वह उपनियम (4) और उपनियम (5) में अधोकथित कृत्यों का पालन करने के लिए सहमत है।

TRUE COPY

(4) स्वतः विनियामक निकाय निम्नलिखित कृत्यों को करेगा, अर्थात् :—

- (क) आचार संहिता के प्रकाशक द्वारा संरेखण और अनुषक्ति का पर्यवेक्षण करना और उसे सुनिश्चित करना ;
- (ख) आचार संहिता के विभिन्न पहलुओं पर प्रकाशकों को मार्गदर्शन प्रदान करना;
- (ग) पन्द्रह दिनों की विनिर्दिष्ट अवधि के भीतर प्रकाशकों द्वारा समाधान न की गई शिकायतों को इंगित करना;
- (घ) प्रकाशकों के विनिश्चय के विरुद्ध शिकायतकर्ता द्वारा फाइल की गई अपीलों को सुनना;
- (ङ) आचार संहिता का अनुपालन सुनिश्चित करने के लिए उपनियम (5) में यथाविनिर्दिष्ट ऐसे प्रकाशकों को ऐसे दिशानिर्देश और परामर्शिका जारी करना।

(5) कोई स्वतः विनियामक निकाय जब किसी शिकायत का निपटारा या उपनियम (4) में निर्दिष्ट किसी अपील का निपटारा कर रही है, तो प्रकाशकों को निम्नलिखित दिशानिर्देश या परामर्शिका जारी कर सकेगी, अर्थात् :—

- (क) प्रकाशक को चेतावनी देना, परिनिन्दा करना, भर्त्सना करना या फटकार लगाना; या
- (ख) प्रकाशक से क्षमा मांगने की अपेक्षा करना; या
- (ग) चेतावनी कार्ड या किसी इंकार को सम्मिलित करते हुए प्रकाशक से अपेक्षा करना; या
- (घ) ऑनलाइन क्यूरेटेड अंतर्वस्तु की दशा में, प्रकाशक को निर्देश देना कि-

- (i) सुसंगत अंतर्वस्तु की रेटिंग का पुनःवर्गीकरण करे;
- (ii) विवरणकर्ता, उम्र का वर्गीकरण और नियंत्रण उपायों तक पहुंच की अंतर्वस्तु में समुचित उपांतरण करे;
- (iii) सुसंगत अंतर्वस्तु के सारांश को बदले; या

(ङ) किसी अंतर्वस्तु की दशा में, जहां वह संतुष्ट है कि समुचित कार्रवाई के लिए लोक व्यवस्था से संबंधित किए गए संज्ञेय अपराध के लिए उद्घापन के निवारण इसके लिए अंतर्वस्तु को बदलने या उपांतरित करने के लिए कोई कार्रवाई करने की आवश्यकता है या अधिनियम की धारा 69क की उपधारा (1) में संगणित कारणों के संबंध में नियम 13 में निर्दिष्ट अन्वेक्षा क्रियाविधि द्वारा विचार के लिए मंत्रालय को निर्दिष्ट करना ।

(6) जहां स्वतः विनियामक निकाय की यह राय है कि आचार संहिता का कोई अतिक्रमण नहीं हुआ है तो वह शिकायतकर्ता और ऐसी इकाई को ऐसे विनिश्चय के संबंध में संसूचित करेगी।

(7) जहां कोई प्रकाशक, ऐसे दिशानिर्देश या परामर्शिका में विनिर्दिष्ट समय के भीतर स्वतः विनियामक निकाय के दिशानिर्देशों और परामर्शिकाओं का पालन करने में असफल रहता है तो स्वतः विनियामक निकाय मामले को विनिर्दिष्ट तारीख की समाप्ति के पन्द्रह दिनों के भीतर नियम 13 में निर्दिष्ट अन्वेक्षा क्रियाविधि को निर्दिष्ट करेगा ।

अध्याय 4

अन्वेक्षा क्रियाविधि - स्तर 3

13. अन्वेक्षा क्रियाविधि—(1) मंत्रालय, प्रकाशकों और स्वतः विनियामक निकायों द्वारा आचार संहिता की अनुषक्ति का समन्वयन करेगा और उसे सुकर बनाएगा, अन्वेक्षा क्रियाविधि का विकास करने के लिए निम्नलिखित कृत्यों को करेगा, अर्थात् :—

- (क) ऐसे निकायों के लिए व्यवहार संहिता को सम्मिलित करते हुए, स्वतः विनियामक निकायों के लिए एक चार्टर का प्रकाशन करना;
- (ख) शिकायतों को सुनने के लिए एक अंतर-विभागीय समिति की स्थापना करना;
- (ग) नियम 12 के अधीन स्वतः विनियामक निकाय के विनिश्चय से उद्भूत शिकायतों को या जहां विनिर्दिष्ट समयावधि के भीतर स्वतः विनियामक निकाय द्वारा कोई विनिश्चय नहीं लिया गया है या आचार संहिता के अतिक्रमण से संबंधित ऐसी अन्य शिकायतें या निर्देश को, जिसे आवश्यक समझा जाए, अंतर-विभागीय समिति को निर्दिष्ट करना;
- (घ) प्रकाशकों को समुचित दिशानिर्देश और परामर्शिका जारी करना;

(ड) आचार संहिता के अनुरक्षण और अनुषक्ति के लिए प्रकाशकों को आदेश और निदेश जारी करना ।

(2) मंत्रालय, यथास्थिति, नियम 15 या नियम 16 के अधीन निदेशों को जारी करने के प्रयोजनों के लिए "प्राधिकृत अधिकारी" के रूप में ऐसे व्यक्ति को, जो भारत सरकार के संयुक्त सचिव की पंक्ति से नीचे का न हो, मंत्रालय का एक अधिकारी नियुक्त करेगा ।

14. अंतर-विभागीय समिति—(1) मंत्रालय, एक अंतर-विभागीय समिति गठित करेगा जो सूचना और प्रसारण मंत्रालय, महिला और बाल विकास मंत्रालय, विधि और न्याय मंत्रालय, गृह मंत्रालय, इलेक्ट्रॉनिक और सूचना प्रौद्योगिकी मंत्रालय, विदेश मंत्रालय, रक्षा मंत्रालय और ऐसे अन्य मंत्रालय और संगठन जिसमें, ऐसे डोमेन विशेषज्ञ सम्मिलित हैं, जिसे समिति में सम्मिलित करने का विनिश्चय किया जा सके, के प्रतिनिधियों से मिलकर बनी हुई समिति कही जाएगी :

परंतु नियम 13 के उपनियम (2) के अधीन अभिहित प्राधिकृत अधिकारी ऐसी समिति का अध्यक्ष होगा ।

(2) समिति, आवधिक रूप से बैठक करेगी और नियम 8 में निर्दिष्ट इकाइयों द्वारा आचार संहिता के अतिक्रमण और उल्लंघन से संबंधित निम्नलिखित शिकायतें भी सुनेगी—

(क) स्तर 1 या स्तर 2 पर लिए गए विनिश्चयों के संबंध में उद्भूत शिकायतें, जिसमें ऐसे मामले सम्मिलित हैं, जहां शिकायत प्रतितोषण क्रियाविधि में विनिर्दिष्ट समय के भीतर ऐसे विनिश्चय नहीं लिए गए हैं; या

(ख) जिसे मंत्रालय द्वारा निर्दिष्ट किया गया है ।

(3) समिति को निर्दिष्ट ऐसी कोई शिकायत, चाहे वह शिकायतों से उद्भूत हो या मंत्रालय द्वारा निर्दिष्ट हो, लिखित में होगी और शिकायत को निर्दिष्ट करते हुए इकाई के प्राधिकृत प्रतिनिधि के इलेक्ट्रॉनिक हस्ताक्षर के साथ मेल या फैक्स द्वारा या ई-मेल द्वारा भेजा जा सकेगा और समिति यह सुनिश्चित करेगी कि ऐसे निर्देश में कोई संख्या समनुदेशित की जाएगी, जो इसकी प्राप्ति की तारीख और समय के साथ अभिलिखित की गई हो ।

(4) मंत्रालय, नियम 8 में निर्दिष्ट इकाई की पहचान के लिए सभी युक्तियुक्त प्रयास करेगी जो अंतर्वस्तु या उसके भाग का सृजन, प्रकाशित या होस्ट किया गया है और जहां ऐसी इकाई की पहचान योग्य हो जाती है, तो यह समिति के समक्ष उसका उत्तर या स्पष्टीकरण, यदि कोई हो, प्रस्तुत करने और प्रकट करने के लिए ऐसी इकाई को सम्यक् रूप से हस्ताक्षरित सूचना जारी करेगा ।

(5) सुनवाई में, समिति परिवाद और शिकायतों की परीक्षा करेगी और ऐसे परिवाद या शिकायत को या तो स्वीकार करेगी या अनुज्ञात करेगी और मंत्रालय को निम्नलिखित सिफारिशें दे सकेगी, अर्थात् :-

(क) ऐसी इकाई को चेतावनी, परिनिंदा, भर्त्सना या फटकारना; या

(ख) ऐसी इकाई द्वारा क्षमा की अपेक्षा; या

(ग) ऐसी इकाई से चेतावनी कार्ड या दावा त्याग को सम्मिलित करने की अपेक्षा; या

(घ) यदि आनलाइन संगृहीत अंतर्वस्तु किसी प्रकाशक को,—

(i) सुसंगत अंतर्वस्तु की रेटिंग को वर्गीकृत करने; या

(ii) सुसंगत अंतर्वस्तु की रूपरेखा को संपादित करने; या

(iii) अंतर्वस्तु निरूपक, आयु वर्गीकरण और पैतृक या पहुंच नियंत्रण में समुचित उपांतरण करने का निदेश देती है ;

(ड) लोक व्यवस्था से संबंधित संज्ञेय अपराध कारित किए जाने के उत्प्रेरण को रोकने के लिए अंतर्वस्तु का लोप या उपांतरण ;

(च) ऐसी अंतर्वस्तु की दशा में, जहां समिति का यह समाधान हो जाता है कि अधिनियम की धारा 69क की उपधारा (1) में संख्यांकित कारणों के संबंध में कार्रवाई किए जाने की आवश्यकता है, वह ऐसी कार्रवाई की सिफारिश कर सकेगी ।

(6) मंत्रालय, समिति की सिफारिशों पर विचार करने के पश्चात्, प्रकाशक द्वारा अनुपालन के लिए समुचित आदेश और निदेश जारी कर सकेगा :

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परंतु ऐसा कोई आदेश, सचिव, सूचना और प्रसारण मंत्रालय भारत सरकार (जिसे इसमें इसके पश्चात् "सचिव सूचना और प्रसारण मंत्रालय" कहा गया है) के अनुमोदन के बिना जारी नहीं किया जाएगा।

15. निदेश जारी करने के लिए प्रक्रिया—(1) नियम 14 के उपनियम (5) के खंड (ड) और खंड (च) में निर्दिष्ट सिफारिशों के संबंध में प्राधिकृत अधिकारी, मामले को समुचित विनिश्चय के लिए सचिव, सूचना और प्रसारण मंत्रालय के समक्ष विचार के लिए रखेगा।

(2) प्राधिकृत अधिकारी, सचिव, सूचना और प्रसारण मंत्रालय के द्वारा विनिश्चय के अनुमोदन पर प्रकाशक को, यथास्थिति, सरकार के किसी अभिकरण या मध्यवर्ती को सुसंगत अंतर्वस्तु और लोक पहुंच के लिए उनके कम्प्यूटर स्रोत में जनित, पारेषित, प्राप्त, भंडारित या पोषित सूचना को निदेश में विनिर्दिष्ट सीमा के भीतर हटाने या उपांतरित करने या ब्लाक करने का निदेश देगा:

परंतु यदि सचिव, सूचना और प्रसारण मंत्रालय द्वारा प्राधिकृत अधिकारी की सिफारिशों का अनुमोदन नहीं किया जाता है, तो प्राधिकृत अधिकारी समिति को सूचित करेगा।

(3) इस नियम के अधीन निदेश केवल, यथास्थिति, विनिर्दिष्ट अंतर्वस्तु या अंतर्वस्तु की संख्यांकित सूची के बारे में जारी किया जाएगा और किसी इकाई से उसके प्रचालन को समाप्त करने की अपेक्षा नहीं करेगा।

16. आपात की दशा में सूचना को रोकना—(1) नियम 14 और नियम 15 में किसी बात के होते हुए भी, प्राधिकृत अधिकारी, आपात की दशा में, जिसके लिए कोई विलंब स्वीकार्य नहीं है, सुसंगत अंतर्वस्तु की परीक्षा करेगा और विचार करेगा कि क्या यह अधिनियम की धारा 69क की उपधारा (1) में निर्दिष्ट आधारों के अधीन आता है और ऐसी सूचना या उसके किसी भाग को रोकना आवश्यक या समीचीन और न्यायोचित है तथा सचिव, सूचना और प्रसारण मंत्रालय को लिखित में विनिर्दिष्ट सिफारिश प्रस्तुत करेगा।

(2) आपात की दशा में, यदि सचिव, सूचना और प्रसारण मंत्रालय का यह समाधान हो जाता है कि किसी कम्प्यूटर स्रोत के माध्यम से सूचना या उसके किसी भाग तक लोक पहुंच को अवरुद्ध करना आवश्यक या समीचीन और न्यायोचित है, तो वह कारण अभिलिखित करते हुए, अंतरिम उपाय के रूप में ऐसी सूचना या उसके किसी भाग को पोषित करने वाले किसी कम्प्यूटर संसाधन पर नियंत्रण रखने वाले पहचान किए गए या पहचान योग्य व्यक्तियों, प्रकाशकों या मध्यवर्तियों को सुनवाई का अवसर दिए बिना ऐसे निदेश जारी कर सकेगा, जो वह उचित समझे।

(3) प्राधिकृत अधिकारी, यथाशीघ्र, लेकिन उपनियम (2) के अधीन निदेश जारी किए जाने से अड़तालीस घंटों से अनधिक समय के भीतर समिति के समक्ष विचार और सिफारिश के लिए अनुरोध करेगा।

(4) उपनियम (3) के अधीन समिति की सिफारिशों की प्राप्ति पर, सचिव, सूचना और प्रसारण मंत्रालय, ऐसे अनुरोध के अनुमोदन के संबंध में अंतिम आदेश पारित करेगा और यदि ऐसे अवरुद्ध किए जाने के अनुरोध का अनुमोदन सचिव, सूचना और प्रसारण मंत्रालय द्वारा नहीं किया जाता है तो उपनियम (2) के अधीन जारी अन्तरिम निदेश प्रतिसंहृत किया जाएगा और तदनुसार, ऐसी सूचना पर नियंत्रण रखने वाले ऐसे व्यक्ति, प्रकाशक और मध्यवर्ती को लोक पहुंच के लिए सूचना पर से अवरुद्ध हटाने का निदेश देगा।

17. जारी किए गए निदेशों का पुनर्विलोकन—(1) प्राधिकृत अधिकारी समिति की कार्यवाहियों जिसके अंतर्गत समिति को निर्दिष्ट शिकायतें भी हैं, के पूर्ण अभिलेख अनुरक्षित करेगा और समिति द्वारा की गई सिफारिशों और प्राधिकृत अधिकारी द्वारा जारी किए गए किन्हीं निदेशों का अभिलेख भी अनुरक्षित करेगा।

(2) पुनर्विलोकन समिति प्रत्येक दो मास में कम से कम एक बार अपनी बैठक करेगी और उसके निष्कर्षों को अभिलिखित करेगी कि इन नियमों के अधीन अंतर्वस्तु या सूचना को अवरुद्ध करने के लिए जारी किए गए निदेश अधिनियम की धारा 69क की उपधारा (1) के उपबंधों के अनुसार है और यदि उसकी यह राय है कि निदेश उक्त उपबंधों के अनुसरण में नहीं है, वह ऐसे अंतर्वस्तु और कम्प्यूटर संसाधन में जनित, पारेषित, प्राप्त, भंडारित या पोषित सूचना को अवरुद्ध करने के लिए निदेशों और जारी किए गए आदेशों को अपास्त कर सकेगी।

स्पष्टीकरण—इस नियम के प्रयोजन के लिए "पुनर्विलोकन समिति" से भारतीय तार नियम, 1951 के नियम 419क के अधीन गठित समीक्षा समिति अभिप्रेत है।

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अध्याय 5

सूचना का प्रस्तुत किया जाना

18. सूचना का प्रस्तुत किया जाना—(1) समाचार और समसामयिकी अंतर्वस्तु का प्रकाशक और भारत राज्यक्षेत्र में संचालित ऑनलाइन संग्रहित अंतर्वस्तु का प्रकाशक मंत्रालय को ऐसे दस्तावेजों के साथ सूचना प्रस्तुत करके पर उसकी इकाई के ब्यौरों के बारे में जो उसमें संसूचना और समन्वयन को समर्थ बनाने के लिए विनिर्दिष्ट किए जाएं, सूचना देते हुए सूचित करेगा।

(2) उपनियम (1) में निर्दिष्ट सूचना इन नियमों के प्रकाशन से तीस दिवस के भीतर प्रस्तुत की जाएगी और जहां ऐसा प्रकाशक इन नियमों के आरंभ के पश्चात् भारत राज्यक्षेत्र में प्रचालन का आरंभ करता है या अस्तित्व में आता है, यथास्थिति उसके भारत राज्यक्षेत्र में प्रचालन आरंभ करने या उसके अस्तित्व में आने की तारीख से तीस दिवस के भीतर प्रस्तुत की जाएगी।

(3) समाचार और समसामयिक अंतर्वस्तु का प्रकाशक, प्राप्त की गई शिकायतों के ब्यौरे और उस पर की गई कार्यवाही की निगरानी की प्रत्येक माह की आवधिक अनुपालन रिपोर्ट को प्रकाशित करेगा।

(4) मंत्रालय का प्रकाशक से ऐसे अतिरिक्त सूचना मांग सकेगा जो वह इस भाग के क्रियान्वयन के लिए आवश्यक समझे।

अध्याय 6

प्रकीर्ण

19. सूचना का प्रकटन—(1) कोई प्रकाशक या स्वतः विनियामक निकाय, उसके द्वारा प्राप्त की गई सभी शिकायतों का, उस रीति का, जिसमें ऐसी शिकायतों का निपटारा किया गया है, शिकायत पर की गई कार्रवाई का, शिकायतकर्ता को दिए गए प्रत्युत्तर का, इन नियमों के अधीन उसके द्वारा प्राप्त किए गए आदेशों या निदेशों का और ऐसे आदेशों या निदेशों पर की गई कार्रवाई का सही और पूर्ण प्रकटन करेगा।

(2) उपधारा (1) में निर्दिष्ट सूचना को सार्वजनिक रूप से प्रदर्शित किया जाएगा और उसको प्रत्येक अद्यतन किया जाएगा।

(3) तत्समय प्रवृत्त किसी विधि के अधीन रहते हुए, प्रकाशक उसके द्वारा पारेषित अंतर्वस्तु के अभिलेख कम से कम साठ दिन की अवधि के लिए परिरक्षित करेगा और उसे नियमों के क्रियान्वयन के लिए स्वतः विनियामक निकाय या केन्द्रीय सरकार अथवा किसी अन्य सरकारी अभिकरण को, जब भी उनके द्वारा अध्यपेक्षित हो, उपलब्ध कराएगा।

परिशिष्ट

आचार संहिता

I. समाचार और करंट अफेयर :

- (i) प्रेस परिषद् अधिनियम, 1978 के अधीन भारतीय प्रेस परिषद् के पत्रकारिता संचालन के सन्नियम ;
- (ii) केबल टेलीविजन नेटवर्क (विनियमन) अधिनियम, 1995 की धारा 5 के अधीन कार्यक्रम संहिता ;
- (iii) ऐसी अंतर्वस्तु, जो तत्समय प्रवृत्त किसी विधि के अधीन प्रतिषिद्ध है, का प्रकाशन या पारेषण नहीं किया जाएगा।

II. ऑनलाइन क्यूरेटेड अंतर्वस्तु :

(अ) सामान्य सिद्धांत :

(क) कोई प्रकाशक किसी अंतर्वस्तु का पारेषण या प्रकाशन या प्रदर्शन नहीं करेगा, जिसे तत्समय प्रवृत्त किसी विधि के अधीन प्रतिषिद्ध किया गया है या किसी सक्षम अधिकारिता रखने वाले न्यायालय द्वारा प्रतिषिद्ध किया गया है।

(ख) कोई प्रकाशक निम्नलिखित प्रवर्गों के अधीन आने वाली अंतर्वस्तु की विवेकाओं पर सम्यक्तः विचार करने के पश्चात्, किसी अंतर्वस्तु के चित्रण या पारेषण या प्रकाशन या प्रदर्शन करने का विनिश्चय करते समय निम्नलिखित कारकों पर विचार करेगा और उनके संबंध में सम्यक्तः सावधानी और स्वःविवेक का प्रयोग करेगा, अर्थात्:-

- (i) ऐसी अंतर्वस्तु, जो भारत की संप्रभूता और अखंडता को प्रभावित करती है;

- (ii) ऐसी अंतर्वस्तु, जो राज्य की सुरक्षा को चुनौती देती है, खतरे में डालती है या जोखिम में डालती है;
- (iii) ऐसी अंतर्वस्तु, जो भारत के दूसरे देशों के साथ मित्रता के संबंधों के लिए हानिकर है।
- (iv) ऐसी अंतर्वस्तु जिसमें हिंसा भड़काने या लोक व्यवस्था को बनाए रखने में बाधा उत्पन्न होने की संभावना हो।

(ग) प्रकाशक किन्हीं कार्यकलापों, विश्वासों, पद्धतियों या किन्हीं जातिय या धार्मिक समूह के विचारों का चित्रण करते हुए भारत के बहु-जातिय और बहु धार्मिक परिप्रेक्ष्य को विचार में लेगा और सम्यक् सावधानी रखेगा।

(आ) अंतर्वस्तु वर्गीकरण:

(i) किसी आनलाइन क्यूरेटेड अंतर्वस्तु के प्रकाशक द्वारा पारेषित या प्रकाशित या प्रदर्शित सभी अंतर्वस्तु का निम्नलिखित रेटिंग प्रवर्गों में अंतर्वस्तु की कोटि और प्रकृति के आधार पर वर्गीकरण किया जाएगा, अर्थात् :-

(क) आनलाइन क्यूरेटेड अंतर्वस्तु, जो बालकों के साथ सभी आयु वर्ग के लोगों के लिए उपयुक्त है, को "यू" के रूप में वर्गीकृत किया जाएगा;

(ख) आनलाइन क्यूरेटेड अंतर्वस्तु, जो 7 वर्ष और उससे ऊपर के व्यक्तियों के लिए उपयुक्त है और उसको 7 वर्ष से कम आयु के व्यक्ति द्वारा माता-पिता के मार्गदर्शन के अधीन देखा जा सकता है, को "यू/ए 7+" रेटिंग के रूप में वर्गीकृत किया जाएगा ;

(ग) आनलाइन क्यूरेटेड अंतर्वस्तु, जो 13 वर्ष और उससे ऊपर के व्यक्तियों के लिए उपयुक्त है और उसको 13 वर्ष से कम आयु के व्यक्ति द्वारा माता-पिता के मार्गदर्शन के अधीन देखा जा सकता है, को "यू/ए 13+" रेटिंग के रूप में वर्गीकृत किया जाएगा ;

(घ) आनलाइन क्यूरेटेड अंतर्वस्तु, जो 16 वर्ष और उससे ऊपर के व्यक्तियों के लिए उपयुक्त है और उसको 16 वर्ष से कम आयु के व्यक्ति द्वारा माता-पिता के मार्गदर्शन के अधीन देखा जा सकता है, को "यू/ए 16+" रेटिंग के रूप में वर्गीकृत किया जाएगा; और

(ङ) आनलाइन क्यूरेटेड अंतर्वस्तु, जो केवल व्यस्कों तक निर्बंधित है, को "ए" रेटिंग के रूप में वर्गीकृत किया जाएगा।

(ii) अंतर्वस्तु को सूचना और प्रसारण मंत्रालय द्वारा समय-समय पर यथाउपांतरित अनुसूची में यथावर्णित: (i) थीम और संदेश; (ii) हिंसा; (iii) नग्नता; (iv) सेक्स; (v) भाषा; (vi) ड्रग्स और पदार्थों का दुरुपयोग; और (vii) भयोत्पादक, के आधार पर वर्गीकृत किया जा सकेगा।

(इ) वर्गीकरण का प्रदर्शन :

(क) आनलाइन क्यूरेटेड अंतर्वस्तु का प्रकाशक, प्रमुख रूप से प्रत्येक अंतर्वस्तु या कार्यक्रम की विशिष्ट वर्गीकरण रेटिंग अंतर्वस्तु विवरणकर्ता के साथ उपयोक्ता को अंतर्वस्तु की प्रकृति के विषय में सूचित करते हुए प्रदर्शित करेगा तथा दर्शक को प्रत्येक कार्यक्रम के प्रारंभ में (यदि लागू हो) दर्शक विवरण का परामर्श देगा, जिससे उपयोक्ता कार्यक्रम को देखने से पूर्व एक संसूचित विनिश्चय करने में समर्थ हो सके।

(ख) किसी ऐसी अंतर्वस्तु को, जिसे यू/ए 13+ या उच्चतर ऑनलाइन क्यूरेटेड अंतर्वस्तु का प्रकाशक के रूपों में वर्गीकृत किया गया है, को उपलब्ध कराने वाला यह सुनिश्चित करेगा कि पेरेन्टल लॉक सहित पहुंच नियंत्रण तंत्र ऐसी अंतर्वस्तु के लिए उपलब्ध हो।

(ग) आनलाइन क्यूरेटेड अंतर्वस्तु का प्रकाशक, जो ऐसी अंतर्वस्तु या कार्यक्रम को उपलब्ध कराता है, जिसे "ए" के रूप में वर्गीकृत किया गया है, ऐसी अंतर्वस्तु को देखे जाने के लिए विश्वसनीय आयु सत्यापन तंत्र का कार्यान्वयन करेगा।

(घ) आनलाइन क्यूरेटेड अंतर्वस्तु के प्रकाशक को किसी प्रिंट टेलीवाइज़्ड या ऑनलाइन संबर्धन या प्रचार सामग्री में अपने कार्यक्रमों के लिए वर्गीकरण रेटिंग और उपयोक्ता सलाह को सम्मिलित करने का प्रयास करना चाहिए और ऐसी प्रत्येक अंतर्वस्तु के प्रति विनिर्दिष्ट रेटिंग को मुख्य रूप से प्रदर्शित किया जाना चाहिए।

(ई) किसी बालक द्वारा कतिपय क्यूरेटेड अंतर्वस्तु तक पहुंच का प्रतिबंध :

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ऐसी ऑनलाइन क्यूरेटेड अंतर्वस्तु, जिसमें "ए" रेटिंग दी गई है तक पहुंच प्रदान करने वाला प्रत्येक प्रकाशक, समुचित पहुंच नियंत्रण उपायों के कार्यान्वयन के माध्यम से किसी बालक द्वारा ऐसी अंतर्वस्तु तक पहुंच को निर्बंधित करने के सभी प्रयास करेगा।

(उ) दिव्यांगजन द्वारा आनलाइन क्यूरेटेड अंतर्वस्तु तक पहुंच में सुधार करने के लिए उपाय :

आनलाइन क्यूरेटेड अंतर्वस्तु का प्रत्येक ऐसा प्रकाशक, साध्य सीमा तक, समुचित पहुंच सेवाओं के कार्यान्वयन के माध्यम से उसके द्वारा पारेषित आनलाइन क्यूरेटेड अंतर्वस्तु तक दिव्यांगजन की पहुंच में सुधार करने के लिए युक्तियुक्त प्रयास करेगा।

अनुसूची

किसी क्यूरेटेड अंतर्वस्तु के वर्गीकरण का मार्गदर्शक सिद्धांतों के निम्नलिखित सेटों द्वारा मार्गदर्शन किया जाएगा, अर्थात् :-

भाग 1

फिल्मों के वर्गीकरण और अन्य मनोरंजन कार्यक्रमों, जिनके अंतर्गत वेब आधारित धारावाहिक भी हैं, के लिए साधारण मार्गदर्शक सिद्धांत

ऐसे साधारण कारक हैं, जो किसी भी स्तर पर और किसी विषय के संबंध में वर्गीकरण को प्रभावित कर सकते हैं, निम्नलिखित कारकों की व्याख्या की गई है, जिन्हें मार्गदर्शक सिद्धांतों के भाग 2 के साथ पढ़ा जाए :-

(क) संदर्भ :

क्यूरेटेड अंतर्वस्तु पर ऐसी अंतर्वस्तु में वर्णित अवधि और देश के समकालीन मानकों तथा ऐसे लोगों, जिनसे ऐसी अंतर्वस्तु संबंधित है, को ध्यान में रखते हुए विचार किया जा सकेगा। अतः, वह संदर्भ, जिसमें किसी विषय को किसी फिल्म या वीडियो के अंदर प्रस्तुत किया जाता है, पर विचार किया जाएगा। कृति की सेटिंग (ऐतिहासिक, स्वैर कल्पना, वास्तविक, समकालीन आदि) अंतर्वस्तु प्रस्तुत करने की रीति, अंतर्वस्तु का स्पष्ट आशय, अंतर्वस्तु की मूल प्रस्तुति की तारीख जैसे कारक, और कृति के कोई विशेष गुण वर्गीकरण विनिश्चय को प्रभावित कर सकते हैं।

(ख) थीम :

वर्गीकरण विनिश्चयों में किसी अंतर्वस्तु की थीम पर विचार किया जा सकेगा, किंतु यह मुख्यतः उस थीम की व्याख्या, विशेष रूप से उसकी प्रस्तुति की संवेदनशीलता पर निर्भर करेगा। अति चुनौतीपूर्ण थीम (उदाहरणार्थ, ड्रग दुरुपयोग, हिंसा, पेडोफिलिया, लिंग, जातियां या साम्प्रदायिक घृणा या हिंसा आदि) वर्गीकरण के कनिष्ठ स्तरों पर उचित नहीं हो सकते।

(ग) सुर और प्रभाव :

क्यूरेटेड अंतर्वस्तु का, उसके संपूर्ण प्रभाव के दृष्टिकोण से, उसकी समग्रता का अनुमान लगाया जा सकता है। अंतर्वस्तु का सुर उस प्रभाव का विनिश्चय करने में महत्वपूर्ण कारक हो सकता है, जिसका प्रभाव विभिन्न वर्गों के लोगों पर हो। अतः, ऐसी फिल्म/धारावाहिक, जिनमें हिंसा का अधिक प्रबल चित्रण किया गया है, को उच्चतर वर्गीकृत किया जा सकेगा।

(घ) लक्षित दर्शकगण :

किसी अंतर्वस्तु का वर्गीकरण कृति के लक्षित दर्शकों पर और ऐसे दर्शकों पर कृति के प्रभाव पर भी निर्भर करता है।

भाग 2

मुद्दों से संबंधित मार्गदर्शक सिद्धांतों

मार्गदर्शक सिद्धांतों के इस खंड में ऐसे मुद्दे और अंतर्वस्तु सम्मिलित हैं जो वर्गीकरण के सभी प्रवर्गों पर परिवर्ती डिग्रियों में लागू होंगे और साधारण पहुंच को, जो उसके संबंध में ली जा सकती है, विस्तृत करेंगे। अंतर्वस्तु को वर्णानुक्रम में सूचीबद्ध किया जाएगा और उन्हें उपरोक्त भाग 1 में सूचीबद्ध चार साधारण मार्गदर्शक सिद्धांतों के साथ पढ़ा जाएगा।

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(क) विभेद :

अंतर्वस्तु के सुस्पष्ट वर्गीकरण में ऐसे मामलों जैसे कि जाति, मूल वंश, लिंग, धर्म, दिव्यांगता या लैंगिकता जो कृति की बृहद परास से उद्भूत होते हैं पर फिल्म के प्रभाव को और वर्गीकरण विनिश्चय में उनके समावेशन की शक्ति और प्रभाव को हिसाब में लिया जाएगा।

(ख) मनःप्रभावी पदार्थ, शराब, धूम्रपान और तंबाकू :

1) फिल्म/धारावाहिक, आदि अभिनय के रूप में मनःप्रभावी पदार्थ, शराब, धूम्रपान और तंबाकू का पूर्ण रूप से दुरुपयोग करते हैं वे वर्गीकरण के उच्चतम प्रवर्ग के लिए अर्हक होंगे।

(ग) अनुकरणीय व्यवहार :

(1) वर्गीकरण विनिश्चय में किसी आपराधिक अभिनय और हथियारों के साथ हिंसक व्यवहार को हिसाब में लिया जा सकेगा।

(2) संभवतः खतरनाक व्यवहार का अभिनय, जिससे किसी अपराध (जिसके अंतर्गत आत्महत्या और स्वयं-क्षति की पीडा भी है) का उत्प्रेरण संभाव्य है और जिसकी बालक और युवा वर्ग संभवतः नकल करेगा, उसे उच्चतर वर्गीकृत किया जाएगा।

(3) फिल्म/धारावाहिक, जिनमें ऐसे प्रगीत और भाव भंगीमा के साथ गाने और नृत्य हैं, जिनमें लैंगिक व्यंग्य है, को उच्चतर वर्गीकृत किया जाएगा।

(घ) भाषा :

(1) हमारे देश में निहित भाषायी अनेकता में भाषा को विशेष महत्व दिया जाता है। भाषा, बोली, मुहावरा और प्रियोक्ती, क्षेत्रवार और विशिष्ट-संस्कृति के आधार पर भिन्न-भिन्न होती है। इस कारक को विशिष्ट प्रवर्ग में कृति के वर्गीकरण की प्रक्रिया के दौरान हिसाब में लिया जाना चाहिए।

(2) भाषा, जिसे लोग घृणास्पद पाए, में अपशब्दों का प्रयोग सम्मिलित है। अपराध का विस्तार, आयु, लिंग, मूलवंश, पृष्ठभूमि, विश्वास के अनुसार और लक्षित दर्शकों की कृति से अपेक्षाओं के साथ-साथ वह संदर्भ, धर्म और भाषा, जिसमें शब्द, पद और भाव भंगीमा प्रयुक्त की जाती है, के अनुसार भिन्न-भिन्न हो सकेगा।

(3) शब्दों, पदों, भाव भंगीमाओं जो प्रत्येक भारतीय भाषा के प्रत्येक प्रवर्ग में स्वीकार्य है की व्यापक सूची तैयार करना संभव नहीं है। इसलिए, विभिन्न वर्गीकरण स्तरों पर सलाह इस मार्गदर्शक सिद्धांत पर आधारित अंतर्वस्तु के लिए वर्गीकरण के स्तर का निर्णय करते समय साधारण मार्गदर्शन का उपबंध करती है।

(ङ) नग्नता :

(1) ऐसी कोई अंतर्वस्तु, जो तत्समय प्रवृत्त किसी विधि द्वारा प्रतिषिद्ध है, प्रकाशित/पारेषित नहीं की जा सकेगी।

(2) लैंगिक संदर्भ के साथ नग्नता को ए के रूप में वर्गीकृत किया जाएगा।

(च) सेक्स :

ऐसी कोई अंतर्वस्तु, जो तत्समय प्रवृत्त किसी विधि द्वारा प्रतिषिद्ध है, प्रकाशित/पारेषित नहीं की जा सकेगी। अंतर्वस्तु को यू/ए 16+ से "ए" विभिन्न रेटिंग में वर्गीकृत किया जाएगा, जो कामुक व्यवहार के अप्रत्यक्ष से प्रत्यक्ष चित्रण के अभिनय पर निर्भर करेगा।

(छ) हिंसा :

वर्गीकरण विनिश्चय में कृति में हिंसा की डिग्री और प्रकृति को हिसाब में लिया जाएगा।

[फा.सं. 16(4)/2020-सीएलईएस]

डॉ. राजेन्द्र कुमार, अपर सचिव

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MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY

NOTIFICATION

New Delhi, the 25th February, 2021

G.S.R. 139(E).—In exercise of the powers conferred by sub-section (1), clauses (z) and (zg) of sub-section (2) of section 87 of the Information Technology Act, 2000 (21 of 2000), and in supersession of the Information Technology (Intermediaries Guidelines) Rules, 2011, except as respect things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely:—

PART I

PRELIMINARY

1. Short Title and Commencement.—(1) These rules may be called the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.— (1) In these rules, unless the context otherwise requires-

- (a) 'access control mechanism' means any measure, including a technical measure, through which access to online curated content may be restricted based on verification of the identity or age of a user;
- (b) 'access services' means any measure, including technical measure such as closed captioning, subtitles and audio descriptions, through which the accessibility of online curated content may be improved for persons with disabilities;
- (c) 'Act' means the Information Technology Act, 2000 (21 of 2000);
- (d) 'child' means any person below the age of eighteen years;
- (e) 'committee' means the Inter-Departmental Committee constituted under rule 14;
- (f) 'communication link' means a connection between a hypertext or graphical element, and one or more items in the same or different electronic document wherein upon clicking on a hyperlinked item, the user is automatically transferred to the other end of the hyperlink which can be another electronic record or another website or application or graphical element;
- (g) 'content' means the electronic record defined in clause (t) of section 2 of the Act;
- (h) 'content descriptor' means the issues and concerns which are relevant to the classification of any online curated content, including discrimination, depiction of illegal or harmful substances, imitable behaviour, nudity, language, sex, violence, fear, threat, horror and other such concerns as specified in the *Schedule* annexed to the rules;
- (i) 'digital media' means digitized content that can be transmitted over the internet or computer networks and includes content received, stored, transmitted, edited or processed by-
 - (i) an intermediary; or
 - (ii) a publisher of news and current affairs content or a publisher of online curated content;
- (j) 'grievance' includes any complaint, whether regarding any content, any duties of an intermediary or publisher under the Act, or other matters pertaining to the computer resource of an intermediary or publisher, as the case may be;
- (k) 'Grievance Officer' means an officer appointed by the intermediary or the publisher, as the case may be, for the purposes of these rules;
- (l) 'Ministry' means, for the purpose of Part II of these rules unless specified otherwise, the Ministry of Electronics and Information Technology, Government of India, and for the purpose of Part III of these rules, the Ministry of Information and Broadcasting, Government of India;
- (m) 'news and current affairs content' includes newly received or noteworthy content, including analysis, especially about recent events primarily of socio-political, economic or cultural

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nature, made available over the internet or computer networks, and any digital media shall be news and current affairs content where the context, substance, purpose, import and meaning of such information is in the nature of news and current affairs content.

- (n) 'newspaper' means a periodical of loosely folded sheets usually printed on newsprint and brought out daily or at least once in a week, containing information on current events, public news or comments on public news;
- (o) 'news aggregator' means an entity who, performing a significant role in determining the news and current affairs content being made available, makes available to users a computer resource that enable such users to access the news and current affairs content which is aggregated, curated and presented by such entity.
- (p) 'on demand' means a system where a user, subscriber or viewer is enabled to access, at a time chosen by such user, any content in electronic form, which is transmitted over a computer resource and is selected by the user;
- (q) 'online curated content' means any curated catalogue of audio-visual content, other than news and current affairs content, which is owned by, licensed to or contracted to be transmitted by a publisher of online curated content, and made available on demand, including but not limited through subscription, over the internet or computer networks, and includes films, audio visual programmes, documentaries, television programmes, serials, podcasts and other such content;
- (r) 'person' means a person as defined in sub-section (31) of section 2 of the Income tax Act, 1961 (43 of 1961);
- (s) 'publisher' means a publisher of news and current affairs content or a publisher of online curated content;
- (t) 'publisher of news and current affairs content' means an online paper, news portal, news aggregator, news agency and such other entity called by whatever name, which is functionally similar to publishers of news and current affairs content but shall not include newspapers, replica e-papers of the newspaper and any individual or user who is not transmitting content in the course of systematic business, professional or commercial activity;
- (u) 'publisher of online curated content' means a publisher who, performing a significant role in determining the online curated content being made available, makes available to users a computer resource that enables such users to access online curated content over the internet or computer networks, and such other entity called by whatever name, which is functionally similar to publishers of online curated content but does not include any individual or user who is not transmitting online curated content in the course of systematic business, professional or commercial activity;
- (v) 'significant social media intermediary' means a social media intermediary having number of registered users in India above such threshold as notified by the Central Government;
- (w) 'social media intermediary' means an intermediary which primarily or solely enables online interaction between two or more users and allows them to create, upload, share, disseminate, modify or access information using its services;
- (x) 'user' means any person who accesses or avails any computer resource of an intermediary or a publisher for the purpose of hosting, publishing, sharing, transacting, viewing, displaying, downloading or uploading information and includes other persons jointly participating in using such computer resource and addressee and originator;
- (y) 'user account' means the account registration of a user with an intermediary or publisher and includes profiles, accounts, pages, handles and other similar presences by means of which a user is able to access the services offered by the intermediary or publisher.
- (2) Words and expressions used and not defined in these rules but defined in the Act and rules made thereunder shall have the same meaning as assigned to them in the Act and the said rules, as the case may be.

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PART II

DUE DILIGENCE BY INTERMEDIARIES AND GRIEVANCE REDRESSAL MECHANISM

3. (1) **Due diligence by an intermediary:** An intermediary, including social media intermediary and significant social media intermediary, shall observe the following due diligence while discharging its duties, namely:—

- (a) the intermediary shall prominently publish on its website, mobile based application or both, as the case may be, the rules and regulations, privacy policy and user agreement for access or usage of its computer resource by any person;
- (b) the rules and regulations, privacy policy or user agreement of the intermediary shall inform the user of its computer resource not to host, display, upload, modify, publish, transmit, store, update or share any information that,—
 - (i) belongs to another person and to which the user does not have any right;
 - (ii) is defamatory, obscene, pornographic, paedophilic, invasive of another's privacy, including bodily privacy, insulting or harassing on the basis of gender, libellous, racially or ethnically objectionable, relating or encouraging money laundering or gambling, or otherwise inconsistent with or contrary to the laws in force;
 - (iii) is harmful to child;
 - (iv) infringes any patent, trademark, copyright or other proprietary rights;
 - (v) violates any law for the time being in force;
 - (vi) deceives or misleads the addressee about the origin of the message or knowingly and intentionally communicates any information which is patently false or misleading in nature but may reasonably be perceived as a fact;
 - (vii) impersonates another person;
 - (viii) threatens the unity, integrity, defence, security or sovereignty of India, friendly relations with foreign States, or public order, or causes incitement to the commission of any cognisable offence or prevents investigation of any offence or is insulting other nation;
 - (ix) contains software virus or any other computer code, file or program designed to interrupt, destroy or limit the functionality of any computer resource;
 - (x) is patently false and untrue, and is written or published in any form, with the intent to mislead or harass a person, entity or agency for financial gain or to cause any injury to any person;
- (c) an intermediary shall periodically inform its users, at least once every year, that in case of non-compliance with rules and regulations, privacy policy or user agreement for access or usage of the computer resource of such intermediary, it has the right to terminate the access or usage rights of the users to the computer resource immediately or remove non-compliant information or both, as the case may be;
- (d) an intermediary, on whose computer resource the information is stored, hosted or published, upon receiving actual knowledge in the form of an order by a court of competent jurisdiction or on being notified by the Appropriate Government or its agency under clause (b) of sub-section (3) of section 79 of the Act, shall not host, store or publish any unlawful information, which is prohibited under any law for the time being in force in relation to the interest of the sovereignty and integrity of India; security of the State; friendly relations with foreign States; public order; decency or morality; in relation to contempt of court; defamation; incitement to an offence relating to the above, or any information which is prohibited under any law for the time being in force:

Provided that any notification made by the Appropriate Government or its agency in relation to any information which is prohibited under any law for the time being in force shall be issued by an authorised agency, as may be notified by the Appropriate Government:

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Provided further that if any such information is hosted, stored or published, the intermediary shall remove or disable access to that information, as early as possible, but in no case later than thirty-six hours from the receipt of the court order or on being notified by the Appropriate Government or its agency, as the case may be:

Provided also that the removal or disabling of access to any information, data or communication link within the categories of information specified under this clause, under clause (b) on a voluntary basis, or on the basis of grievances received under sub-rule (2) by such intermediary, shall not amount to a violation of the conditions of clauses (a) or (b) of sub-section (2) of section 79 of the Act;

- (e) the temporary or transient or intermediate storage of information automatically by an intermediary in a computer resource within its control as an intrinsic feature of that computer resource, involving no exercise of any human, automated or algorithmic editorial control for onward transmission or communication to another computer resource shall not amount to hosting, storing or publishing any information referred to under clause (d);
- (f) the intermediary shall periodically, and at least once in a year, inform its users of its rules and regulations, privacy policy or user agreement or any change in the rules and regulations, privacy policy or user agreement, as the case may be;
- (g) where upon receiving actual knowledge under clause (d), on a voluntary basis on violation of clause (b), or on the basis of grievances received under sub-rule (2), any information has been removed or access to which has been disabled, the intermediary shall, without vitiating the evidence in any manner, preserve such information and associated records for one hundred and eighty days for investigation purposes, or for such longer period as may be required by the court or by Government agencies who are lawfully authorised;
- (h) where an intermediary collects information from a user for registration on the computer resource, it shall retain his information for a period of one hundred and eighty days after any cancellation or withdrawal of his registration, as the case may be;
- (i) the intermediary shall take all reasonable measures to secure its computer resource and information contained therein following the reasonable security practices and procedures as prescribed in the Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Information) Rules, 2011;
- (j) the intermediary shall, as soon as possible, but not later than seventy two hours of the receipt of an order, provide information under its control or possession, or assistance to the Government agency which is lawfully authorised for investigative or protective or cyber security activities, for the purposes of verification of identity, or for the prevention, detection, investigation, or prosecution, of offences under any law for the time being in force, or for cyber security incidents:

Provided that any such order shall be in writing stating clearly the purpose of seeking information or assistance, as the case may be;

- (k) the intermediary shall not knowingly deploy or install or modify technical configuration of computer resource or become party to any act that may change or has the potential to change the normal course of operation of the computer resource than what it is supposed to perform thereby circumventing any law for the time being in force:

Provided that the intermediary may develop, produce, distribute or employ technological means for the purpose of performing the acts of securing the computer resource and information contained therein;

- (l) the intermediary shall report cyber security incidents and share related information with the Indian Computer Emergency Response Team in accordance with the policies and procedures as mentioned in the Information Technology (The Indian Computer Emergency Response Team and Manner of Performing Functions and Duties) Rules, 2013.

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- (2) **Grievance redressal mechanism of intermediary:** (a) The intermediary shall prominently publish on its website, mobile based application or both, as the case may be, the name of the Grievance Officer and his contact details as well as mechanism by which a user or a victim may make complaint against violation of the provisions of this rule or any other matters pertaining to the computer resources made available by it, and the Grievance Officer shall -
- (i) acknowledge the complaint within twenty four hours and dispose off such complaint within a period of fifteen days from the date of its receipt;
 - (ii) receive and acknowledge any order, notice or direction issued by the Appropriate Government, any competent authority or a court of competent jurisdiction.
- (b) The intermediary shall, within twenty-four hours from the receipt of a complaint made by an individual or any person on his behalf under this sub-rule, in relation to any content which is *prima facie* in the nature of any material which exposes the private area of such individual, shows such individual in full or partial nudity or shows or depicts such individual in any sexual act or conduct, or is in the nature of impersonation in an electronic form, including artificially morphed images of such individual, take all reasonable and practicable measures to remove or disable access to such content which is hosted, stored, published or transmitted by it:
- (c) The intermediary shall implement a mechanism for the receipt of complaints under clause (b) of this sub-rule which may enable the individual or person to provide details, as may be necessary, in relation to such content or communication link.

4. Additional due diligence to be observed by significant social media intermediary.—(1) In addition to the due diligence observed under rule 3, a significant social media intermediary shall, within three months from the date of notification of the threshold under clause (v) of sub-rule (1) of rule 2, observe the following additional due diligence while discharging its duties, namely:—

- (a) appoint a Chief Compliance Officer who shall be responsible for ensuring compliance with the Act and rules made thereunder and shall be liable in any proceedings relating to any relevant third-party information, data or communication link made available or hosted by that intermediary where he fails to ensure that such intermediary observes due diligence while discharging its duties under the Act and rules made thereunder:

Provided that no liability under the Act or rules made thereunder may be imposed on such significant social media intermediary without being given an opportunity of being heard.

*Explanation.—*For the purposes of this clause “Chief Compliance Officer” means a key managerial personnel or such other senior employee of a significant social media intermediary who is resident in India;

- (b) appoint a nodal contact person for 24x7 coordination with law enforcement agencies and officers to ensure compliance to their orders or requisitions made in accordance with the provisions of law or rules made thereunder.

*Explanation.—*For the purposes of this clause “nodal contact person” means the employee of a significant social media intermediary, other than the Chief Compliance Officer, who is resident in India;

- (c) appoint a Resident Grievance Officer, who shall, subject to clause (b), be responsible for the functions referred to in sub-rule (2) of rule 3.

*Explanation.—*For the purposes of this clause, “Resident Grievance Officer” means the employee of a significant social media intermediary, who is resident in India;

- (d) publish periodic compliance report every month mentioning the details of complaints received and action taken thereon, and the number of specific communication links or parts of information that the intermediary has removed or disabled access to in pursuance of any

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proactive monitoring conducted by using automated tools or any other relevant information as may be specified;

(2) A significant social media intermediary providing services primarily in the nature of messaging shall enable the identification of the first originator of the information on its computer resource as may be required by a judicial order passed by a court of competent jurisdiction or an order passed under section 69 by the Competent Authority as per the Information Technology (Procedure and Safeguards for interception, monitoring and decryption of information) Rules, 2009, which shall be supported with a copy of such information in electronic form:

Provided that an order shall only be passed for the purposes of prevention, detection, investigation, prosecution or punishment of an offence related to the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, or public order, or of incitement to an offence relating to the above or in relation with rape, sexually explicit material or child sexual abuse material, punishable with imprisonment for a term of not less than five years:

Provided further that no order shall be passed in cases where other less intrusive means are effective in identifying the originator of the information:

Provided also that in complying with an order for identification of the first originator, no significant social media intermediary shall be required to disclose the contents of any electronic message, any other information related to the first originator, or any information related to its other users:

Provided also that where the first originator of any information on the computer resource of an intermediary is located outside the territory of India, the first originator of that information within the territory of India shall be deemed to be the first originator of the information for the purpose of this clause.

(3) A significant social media intermediary that provides any service with respect to an information or transmits that information on behalf of another person on its computer resource—

- (a) for direct financial benefit in a manner that increases its visibility or prominence, or targets the receiver of that information; or
- (b) to which it owns a copyright, or has an exclusive license, or in relation with which it has entered into any contract that directly or indirectly restricts the publication or transmission of that information through any means other than those provided through the computer resource of such social media intermediary,

shall make that information clearly identifiable to its users as being advertised, marketed, sponsored, owned, or exclusively controlled, as the case may be, or shall make it identifiable as such in an appropriate manner.

(4) A significant social media intermediary shall endeavour to deploy technology-based measures, including automated tools or other mechanisms to proactively identify information that depicts any act or simulation in any form depicting rape, child sexual abuse or conduct, whether explicit or implicit, or any information which is exactly identical in content to information that has previously been removed or access to which has been disabled on the computer resource of such intermediary under clause (d) of sub-rule (1) of rule 3, and shall display a notice to any user attempting to access such information stating that such information has been identified by the intermediary under the categories referred to in this sub-rule:

Provided that the measures taken by the intermediary under this sub-rule shall be proportionate having regard to the interests of free speech and expression, privacy of users on the computer resource of such intermediary, including interests protected through the appropriate use of technical measures:

Provided further that such intermediary shall implement mechanisms for appropriate human oversight of measures deployed under this sub-rule, including a periodic review of any automated tools deployed by such intermediary:

Provided also that the review of automated tools under this sub-rule shall evaluate the automated tools having regard to the accuracy and fairness of such tools, the propensity of bias and discrimination in such tools and the impact on privacy and security of such tools.

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(5) The significant social media intermediary shall have a physical contact address in India published on its website, mobile based application or both, as the case may be, for the purposes of receiving the communication addressed to it.

(6) The significant social media intermediary shall implement an appropriate mechanism for the receipt of complaints under sub-rule (2) of rule 3 and grievances in relation to the violation of provisions under this rule, which shall enable the complainant to track the status of such complaint or grievance by providing a unique ticket number for every complaint or grievance received by such intermediary:

Provided that such intermediary shall, to the extent reasonable, provide such complainant with reasons for any action taken or not taken by such intermediary in pursuance of the complaint or grievance received by it.

(7) The significant social media intermediary shall enable users who register for their services from India, or use their services in India, to voluntarily verify their accounts by using any appropriate mechanism, including the active Indian mobile number of such users, and where any user voluntarily verifies their account, such user shall be provided with a demonstrable and visible mark of verification, which shall be visible to all users of the service:

Provided that the information received for the purpose of verification under this sub-rule shall not be used for any other purpose, unless the user expressly consents to such use.

(8) Where a significant social media intermediary removes or disables access to any information, data or communication link, under clause (b) of sub-rule (1) of rule 3 on its own accord, such intermediary shall,—

- (a) ensure that prior to the time at which such intermediary removes or disables access, it has provided the user who has created, uploaded, shared, disseminated, or modified information, data or communication link using its services with a notification explaining the action being taken and the grounds or reasons for such action;
- (b) ensure that the user who has created, uploaded, shared, disseminated, or modified information using its services is provided with an adequate and reasonable opportunity to dispute the action being taken by such intermediary and request for the reinstatement of access to such information, data or communication link, which may be decided within a reasonable time;
- (c) ensure that the Resident Grievance Officer of such intermediary maintains appropriate oversight over the mechanism for resolution of any disputes raised by the user under clause (b).
- (9) The Ministry may call for such additional information from any significant social media intermediary as it may consider necessary for the purposes of this part.

5. Additional due diligence to be observed by an intermediary in relation to news and current affairs content.—In addition to adherence to rules 3 and 4, as may be applicable, an intermediary shall publish, on an appropriate place on its website, mobile based application or both, as the case may be, a clear and concise statement informing publishers of news and current affairs content that in addition to the common terms of service for all users, such publishers shall furnish the details of their user accounts on the services of such intermediary to the Ministry as may be required under rule 18:

Provided that an intermediary may provide such publishers who have provided information under rule 18 with a demonstrable and visible mark of verification as being publishers, which shall be visible to all users of the service.

Explanation.—This rule relates only to news and current affairs content and shall be administered by the Ministry of Information and Broadcasting.

6. Notification of other intermediary.—(1) The Ministry may by order, for reasons to be recorded in writing, require any intermediary, which is not a significant social media intermediary, to comply with all or any of the obligations mentioned under rule 4, if the services of that intermediary permits the publication or transmission of information in a manner that may create a material risk of harm to the sovereignty and integrity of India, security of the State, friendly relations with foreign States or public order.

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(2) The assessment of material risk of harm referred to in sub-rule (1) shall be made having regard to the nature of services of such intermediary, and if those services permit,—

- (a) interaction between users, notwithstanding, whether it is the primary purpose of that intermediary; and
- (b) the publication or transmission of information to a significant number of other users as would be likely to result in widespread dissemination of such information.

(3) An order under this rule may be issued in relation to a specific part of the computer resources of any website, mobile based application or both, as the case may be, if such specific part is in the nature of an intermediary:

Provided that where such order is issued, an entity may be required to comply with all or any of the obligations mentions under rule 4, in relation to the specific part of its computer resource which is in the nature of an intermediary.

7. **Non-observance of Rules.**—Where an intermediary fails to observe these rules, the provisions of sub-section (1) of section 79 of the Act shall not be applicable to such intermediary and the intermediary shall be liable for punishment under any law for the time being in force including the provisions of the Act and the Indian Penal Code.

PART III

CODE OF ETHICS AND PROCEDURE AND SAFEGUARDS IN RELATION TO DIGITAL MEDIA

8. **Application of this Part.**—(1) The rules made under this Part shall apply to the following persons or entities, namely:—

- (a) publishers of news and current affairs content;
- (b) publishers of online curated content; and

shall be administered by the Ministry of Information and Broadcasting, Government of India, which shall be referred to in this Part as the “Ministry”:

Provided that the rules made under this Part shall apply to intermediaries for the purposes of rules 15 and 16;

- (2) the rules made under this Part shall apply to the publishers, where,—
 - (a) such publisher operates in the territory of India; or
 - (b) such publisher conducts systematic business activity of making its content available in India.

Explanation.—For the purposes of this rule,—

- (a) a publisher shall be deemed to operate in the territory of India where such publisher has a physical presence in the territory of India;
- (b) “*systematic activity*” shall mean any structured or organised activity that involves an element of planning, method, continuity or persistence.

(3) The rules made under this Part shall be in addition to and not in derogation of the provisions of any other law for the time being in force and any remedies available under such laws including the Information Technology (Procedure and Safeguards for Blocking of Access of Information by the Public) Rules, 2009.

9. **Observance and adherence to the Code.**—(1) A publisher referred to in rule 8 shall observe and adhere to the Code of Ethics laid down in the *Appendix* annexed to these rules.

(2) Notwithstanding anything contained in these rules, a publisher referred to in rule 8 who contravenes any law for the time being in force, shall also be liable for consequential action as provided in such law which has so been contravened.

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(3) For ensuring observance and adherence to the Code of Ethics by publishers operating in the territory of India, and for addressing the grievances made in relation to publishers under this Part, there shall be a three-tier structure as under—

- (a) Level I - Self-regulation by the publishers;
- (b) Level II – Self-regulation by the self-regulating bodies of the publishers;
- (c) Level III - Oversight mechanism by the Central Government.

CHAPTER I

GRIEVANCE REDRESSAL MECHANISM

10. Furnishing and processing of grievance.—(1) Any person having a grievance regarding content published by a publisher in relation to the Code of Ethics may furnish his grievance on the grievance mechanism established by the publisher under rule 11.

(2) The publisher shall generate and issue an acknowledgement of the grievance for the benefit of the complainant within twenty-four hours of it being furnished for information and record.

(3) The manner of grievance redressal shall have the following arrangement—

- (a) the publisher shall address the grievance and inform the complainant of its decision within fifteen days of the registration of the grievance;
- (b) if the decision of the publisher is not communicated to the complainant within the stipulated fifteen days, the grievance shall be escalated to the level of the self-regulating body of which such publisher is a member.
- (c) where the complainant is not satisfied with the decision of the publisher, it may prefer to appeal to the self-regulating body of which such publisher is a member within fifteen days of receiving such a decision.
- (d) the self-regulating body shall address the grievance referred to in clauses (b) and (c), and convey its decision in the form of a guidance or advisory to the publisher, and inform the complainant of such decision within a period of fifteen days..
- (e) where the complainant is not satisfied with the decision of the self-regulating body, it may, within fifteen days of such decision, prefer an appeal to the Oversight Mechanism referred to in rule 13 for resolution.

CHAPTER II

SELF REGULATING MECHANISM - LEVEL I

11. Self-Regulating mechanism at Level I.— (1) The publisher shall be the Level I of the self-regulating mechanism.

(2) A publisher shall—

- (a) establish a grievance redressal mechanism and shall appoint a Grievance Officer based in India, who shall be responsible for the redressal of grievances received by him;
- (b) display the contact details related to its grievance redressal mechanism and the name and contact details of its Grievance Officer at an appropriate place on its website or interface, as the case may be;
- (c) ensure that the Grievance Officer takes a decision on every grievance received by it within fifteen days, and communicate the same to the complainant within the specified time;
- (d) be a member of a self-regulating body as referred to in rule 12 and abide by its terms and conditions.

(3) The Grievance Officer shall,—

- (a) be the contact point for receiving any grievance relating to Code of Ethics;

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(b) act as the nodal point for interaction with the complainant, the self-regulating body and the Ministry.

(4) Online curated content shall be classified by the publisher of such content into the categories referred to in the *Schedule*, having regard to the context, theme, tone, impact and target audience of such content, with the relevant rating for such categories based on an assessment of the relevant content descriptors in the manner specified in the said *Schedule*.

(5) Every publisher of online curated content shall display the rating of any online curated content and an explanation of the relevant content descriptors, prominently to its users at an appropriate place, as the case may be, in a manner that ensures that such users are aware of this information before accessing such content.

CHAPTER III

SELF REGULATING MECHANISM – LEVEL II

12. Self-regulating body.— (1) There may be one or more self-regulatory bodies of publishers, being an independent body constituted by publishers or their associations.

(2) The self-regulatory body referred to in sub-rule (1) shall be headed by a retired judge of the Supreme Court, a High Court, or an independent eminent person from the field of media, broadcasting, entertainment, child rights, human rights or such other relevant field, and have other members, not exceeding six, being experts from the field of media, broadcasting, entertainment, child rights, human rights and such other relevant fields.

(3) The self-regulating body shall, after its constitution in accordance with sub-rule (2), register itself with the Ministry within a period of thirty days from the date of notification of these rules, and where a self-regulating body is constituted after such period, within thirty days from the date of its constitution:

Provided that before grant of registration to the self-regulating body, the Ministry shall satisfy itself that the self-regulating body has been constituted in accordance with sub-rule (2) and has agreed to perform the functions laid down in sub-rules (4) and (5).

(4) The self-regulating body shall perform the following functions, namely:—

- (a) oversee and ensure the alignment and adherence by the publisher to the Code of Ethics;
- (b) provide guidance to publishers on various aspects of the Code of Ethics;
- (c) address grievances which have not been resolved by publishers within the specified period of fifteen days;
- (d) hear appeals filed by the complainant against the decision of publishers;
- (e) issue such guidance or advisories to such publishers as specified in sub-rule (5) for ensuring compliance to the Code of Ethics.

(5) The self-regulating body while disposing a grievance or an appeal referred to it in sub-rule (4) may issue following guidance or advisories to the publishers as under, namely:—

- (a) warning, censuring, admonishing or reprimanding the publisher; or
- (b) requiring an apology by the publisher; or
- (c) requiring the publisher to include a warning card or a disclaimer; or
- (d) in case of online curated content, direct the publisher to,—
 - (i) reclassify ratings of relevant content;
 - (ii) make appropriate modification in the content descriptor, age classification and access control measures;
 - (iii) edit synopsis of relevant content; or
- (e) in case of any content where it is satisfied that there is a need for taking action to delete or modify the content for preventing incitement to the commission of a cognizable offence

relating to public order, or in relation to the reasons enumerated in sub-section (1) of section 69A of the Act, refer such content to the Ministry for consideration by the Oversight Mechanism referred to in rule 13 for appropriate action.

(6) Where the self-regulating body is of the opinion that there is no violation of the Code of Ethics, it shall convey such decision to the complainant and such entity.

(7) Where a publisher fails to comply with the guidance or advisories of the self-regulating body within the time specified in such guidance or advisory, the self-regulating body shall refer the matter to the Oversight Mechanism referred to in rule 13 within fifteen days of expiry of the specified date.

CHAPTER IV

OVERSIGHT MECHANISM - LEVEL III

13. Oversight mechanism.— (1) The Ministry shall co-ordinate and facilitate the adherence to the Code of Ethics by publishers and self regulating bodies, develop an Oversight Mechanism, and perform the following functions, namely:—

- (a) publish a charter for self regulating bodies, including Codes of Practices for such bodies;
- (b) establish an Inter-Departmental Committee for hearing grievances;
- (c) refer to the Inter-Departmental Committee grievances arising out of the decision of the self-regulating body under rule 12, or where no decision has been taken by the self-regulating body within the specified time period, or such other complaints or references relating to violation of Code of Ethics as it may consider necessary;
- (d) issue appropriate guidance and advisories to publishers;
- (e) issue orders and directions to the publishers for maintenance and adherence to the Code of Ethics.

(2) The Ministry shall appoint an officer of the Ministry not below the rank of a Joint Secretary to the Government of India, as the "Authorised Officer", for the purposes of issuing directions under rules 15 or 16, as the case may be.

14. Inter-Departmental Committee.— (1) The Ministry shall constitute an Inter-Departmental Committee, called the Committee, consisting of representatives from the Ministry of Information and Broadcasting, Ministry of Women and Child Development, Ministry of Law and Justice, Ministry of Home Affairs, Ministry of Electronics and Information Technology, Ministry of External Affairs, Ministry of Defence, and such other Ministries and Organisations, including domain experts, that it may decide to include in the Committee:

Provided that the Authorised Officer designated under sub-rule (2) of rule 13 shall be the Chairperson of such Committee.

(2) The Committee shall meet periodically and hear the following complaints regarding violation or contravention of the Code of Ethics by the entities referred to in Rule 8—

- (a) arising out of the grievances in respect of the decisions taken at the Level I or II, including the cases where no such decision is taken within the time specified in the grievance redressal mechanism; or
- (b) referred to it by the Ministry.

(3) Any complaint referred to the Committee, whether arising out of the grievances or referred to it by the Ministry, shall be in writing and may be sent either by mail or fax or by e-mail signed with electronic signature of the authorised representative of the entity referring the grievance, and the Committee shall ensure that such reference is assigned a number which is recorded along with the date and time of its receipt.

(4) The Ministry shall make all reasonable efforts to identify the entity referred to in Rule 8 which has created, published or hosted the content or part thereof, and where it is able to identify such entity, it shall issue a duly signed notice to such entity to appear and submit their reply and clarifications, if any, before the Committee.

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(5) In the hearing, the Committee shall examine complaints or grievances, and may either accept or allow such complaint or grievance, and make the following recommendations to the Ministry, namely:—

- (a) warning, censuring, admonishing or reprimanding such entity; or
- (b) requiring an apology by such entity; or
- (c) requiring such entity to include a warning card or a disclaimer; or
- (d) in case of online curated content, direct a publisher to—
 - (i) reclassify ratings of relevant content; or
 - (ii) edit synopsis of relevant content; or
 - (iii) make appropriate modification in the content descriptor, age classification and parental or access control;
- (e) delete or modify content for preventing incitement to the commission of a cognisable offence relating to public order;
- (f) in case of content where the Committee is satisfied that there is a need for taking action in relation to the reasons enumerated in sub-section (1) of section 69A of the Act, it may recommend such action.

(6) The Ministry may, after taking into consideration the recommendations of the Committee, issue appropriate orders and directions for compliance by the publisher:

Provided that no such order shall be issued without the approval of the Secretary, Ministry of Information and Broadcasting, Government of India (hereinafter referred to as the “Secretary, Ministry of Information and Broadcasting”).

15. Procedure for issuing of direction.— (1) In respect of recommendations referred to in clauses (e) and (f) of sub-rule (5) of rule 14, the Authorised Officer shall place the matter for consideration before the Secretary, Ministry of Information and Broadcasting for taking appropriate decision.

(2) The Authorised Officer shall, on approval of the decision by the Secretary, Ministry of Information and Broadcasting, direct the publisher, any agency of the Government or any intermediary, as the case may be to delete or modify or block the relevant content and information generated, transmitted, received, stored or hosted in their computer resource for public access within the time limit specified in the direction:

Provided that in case the recommendation of the Authorised Officer is not approved by the Secretary, Ministry of Information and Broadcasting, the Authorised Officer shall convey the same to the Committee.

(3) A direction under this rule may be issued only in respect of a specific piece of content or an enumerated list of content, as the case may be, and shall not require any entity to cease its operations.

16. Blocking of information in case of emergency.— (1) Notwithstanding anything contained in rules 14 and 15, the Authorised Officer, in any case of emergency nature, for which no delay is acceptable, shall examine the relevant content and consider whether it is within the grounds referred to in sub-section (1) of section 69A of the Act and it is necessary or expedient and justifiable to block such information or part thereof and submit a specific recommendation in writing to the Secretary, Ministry of Information and Broadcasting.

(2) In case of emergency nature, the Secretary, Ministry of Information and Broadcasting may, if he is satisfied that it is necessary or expedient and justifiable for blocking for public access of any information or part thereof through any computer resource and after recording reasons in writing, as an interim measure issue such directions as he may consider necessary to such identified or identifiable persons, publishers or intermediary in control of such computer resource hosting such information or part thereof without giving him an opportunity of hearing.

(3) The Authorised Officer, at the earliest but not later than forty-eight hours of issue of direction under sub-rule (2), shall bring the request before the Committee for its consideration and recommendation.

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(4) On receipt of recommendations of the Committee under sub-rule (3), the Secretary, Ministry of Information and Broadcasting, shall pass the final order as regard to approval of such request and in case the request for blocking is not approved by the Secretary, Ministry of Information and Broadcasting in his final order, the interim direction issued under sub-rule (2) shall be revoked and the person, publisher or intermediary in control of such information shall be accordingly, directed to unblock the information for public access.

17. Review of directions issued.—(1) The Authorised Officer shall maintain complete records of the proceedings of the Committee, including any complaints referred to the Committee, and shall also maintain records of recommendations made by the Committee and any directions issued by the Authorised Officer.

(2) The Review Committee shall meet at least once in every two months and record its findings whether the directions of blocking of content or information issued under these rules are in accordance with the provisions of sub-section (1) of section 69A of the Act and if it is of the opinion that the directions are not in accordance with the said provisions, it may set aside the directions and issue order for unblocking of such content or information generated, transmitted, received, stored or hosted in a computer resource.

*Explanation.—*For the purpose of this rule, “Review Committee” shall mean the Review Committee constituted under rule 419A of the Indian Telegraph Rules, 1951.

CHAPTER V

FURNISHING OF INFORMATION

18. Furnishing of information.—(1) A publisher of news and current affairs content and a publisher of online curated content operating in the territory of India, shall inform the Ministry about the details of its entity by furnishing information along with such documents as may be specified, for the purpose of enabling communication and coordination.

(2) The information referred to in sub-rule (1) shall be furnished within a period of thirty days of the publication of these rules, and where such publisher begins operation in the territory of India or comes into existence after commencement of these rules, within thirty days from the date of start of its operations in the territory of India or its coming into existence, as the case may be.

(3) The publisher of news and current affairs content and the publisher of online curated content shall publish periodic compliance report every month mentioning the details of grievances received and action taken thereon.

(4) The Ministry may call for such additional information from the publisher as it may consider necessary for the implementation of this Rule.

CHAPTER VI

MISCELLANEOUS

19. Disclosure of Information.—(1) A publisher and a self-regulating body, shall make true and full disclosure of all grievances received by it, the manner in which the grievances are disposed of, the action taken on the grievance, the reply sent to the complainant, the orders or directions received by it under these rules and action taken on such orders or directions.

(2) The information referred to in sub-rule (1) shall be displayed publicly and updated monthly.

(3) Subject to any law for the time being in force, the publisher shall preserve records of content transmitted by it for a minimum period of sixty days and make it available to the self-regulating body or the Central Government, or any other Government agency, as may be requisitioned by them for implementation of these rules.

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APPENDIX

CODE OF ETHICS

I News and current affairs:

- (i) Norms of Journalistic Conduct of the Press Council of India under the Press Council Act, 1978;
- (ii) Programme Code under section 5 of the Cable Television Networks Regulation) Act, 1995;
- (iii) Content which is prohibited under any law for the time being in force shall not be published or transmitted.

II Online curated content:**(A) General Principles:**

- (a) A publisher shall not transmit or publish or exhibit any content which is prohibited under any law for the time being in force or has been prohibited by any court of competent jurisdiction.
- (b) A publisher shall take into consideration the following factors, when deciding to feature or transmit or publish or exhibit any content, after duly considering the implications of any content as falling under the following categories, and shall exercise due caution and discretion in relation to the same, namely:—
 - (i) content which affects the sovereignty and integrity of India;
 - (ii) content which threatens, endangers or jeopardises the security of the State;
 - (iii) content which is detrimental to India's friendly relations with foreign countries;
 - (iv) content which is likely to incite violence or disturb the maintenance of public order.
- (c) A publisher shall take into consideration India's multi-racial and multi-religious context and exercise due caution and discretion when featuring the activities, beliefs, practices, or views of any racial or religious group.

(B) Content Classification:

- (i) All content transmitted or published or exhibited by a publisher of online curated content shall be classified, based on the nature and type of content, into the following rating categories, namely:—
 - (a) Online curated content which is suitable for children as well as people of all ages shall be classified as "U" rating;
 - (b) Online curated content which is suitable for persons aged 7 years and above, and can be viewed by a person under the age of 7 years with parental guidance, shall be classified as "U/A 7+" rating;
 - (c) Online curated content which is suitable for persons aged 13 years and above, and can be viewed by a person under the age of 13 years with parental guidance, shall be classified as "U/A 13+" rating;
 - (d) Online curated content which is suitable for persons aged 16 years and above, and can be viewed by a person under the age of 16 years with parental guidance, shall be classified as "U/A 16+" rating; and
 - (e) Online curated content which is restricted to adults shall be classified as "A" rating.
- (ii) The Content may be classified on the basis of.—i) Themes and messages; ii) Violence; iii) Nudity; iv) Sex; v) Language; vi) Drug and substance abuse; and (vii) Horror as described in the *Schedule*, as may be modified from time to time by the Ministry of Information & Broadcasting.

(C) Display of Classification:

- (a) The publisher of online curated content shall prominently display the classification rating specific to each content or programme together with a content descriptor informing the user about the nature of the content, and advising on viewer discretion (if applicable) at the beginning of every programme enabling the user to make an informed decision, prior to watching the programme.

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- (b) The publisher of online curated content making available content that is classified as U/A 13+ or higher shall ensure that access control mechanisms, including parental locks, are made available for such content.
- (c) A publisher of online curated content which makes available content or programme that is classified as "A" shall implement a reliable age verification mechanism for viewership of such content.
- (d) A publisher of online curated content must strive to include classification rating and consumer advice for their programmes in any print, televised or online promotional or publicity material and prominently display the classification rating specific to each such content.

(D) Restriction of access to certain curated content by a child:

Every publisher of online curated content providing access to online curated content which has an "A" rating shall take all efforts to restrict access to such content by a child through the implementation of appropriate access control measures.

(E) Measures to improve accessibility of online curated content by persons with disabilities:

Every publisher of online curated content shall, to the extent feasible, take reasonable efforts to improve the accessibility of online curated content transmitted by it to persons with disabilities through the implementation of appropriate access services.

SCHEDULE

Classification of any curated content shall be guided by the following sets of guidelines, namely:—

PART I

GENERAL GUIDELINES FOR CLASSIFICATION OF FILMS AND OTHER ENTERTAINMENT PROGRAMMES, INCLUDING WEB BASED SERIALS

There are general factors that may influence a classification decision at any level and in connection with any issue and the following factors are elucidated which may be read along with Part II of the Guidelines -

(a) Context:

Curated content may be considered in the light of the period depicted in such content and the contemporary standards of the country and the people to which such content relates. Therefore, the context in which an issue is presented within a film or video may be given consideration. Factors such as the setting of a work (historical, fantasy, realistic, contemporary etc.), the manner of presentation of the content, the apparent intention of the content, the original production date of the content, and any special merits of the work may influence the classification decision.

(b) Theme:

Classification decisions may take into the theme of any content but will depend significantly on the treatment of that theme, especially the sensitivity of its presentation. The most challenging themes (for example, drug misuse, violence, pedophilia, sex, racial or communal hatred or violence etc.) are unlikely to be appropriate at the junior levels of classification.

(c) Tone and impact:

Curated content may be judged in its entirety from the point of view of its overall impact. The tone of content can be an important factor in deciding the influence it may have on various groups of people. Thus, films/serials that have a stronger depiction of violence may receive a higher classification.

(d) Target audience:

The classification of any content may also depend upon the target audience of the work and the impact of the work on such audience.

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PART II
ISSUE RELATED GUIDELINES

This part of the guidelines comprises the issues and concerns that apply in varying degrees to all categories of classification and elaborates the general approach that may be taken in this regard to the same. These concerns are listed in alphabetical order, and are to be read with the four General Guidelines listed in Part I

(a) Discrimination:

The categorical classification of content shall take into account the impact of a film on matters such as caste, race, gender, religion, disability or sexuality that may arise in a wide range of works, and the classification decision will take account of the strength or impact of their inclusion.

(b) Psychotropic substances, liquor, smoking and tobacco:

Films or serials, etc. that as a whole portray misuse of psychotropic substances, liquor, smoking and tobacco would qualify for a higher category of classification.

(c) Imitable behaviour:

- (1) Classification decisions may take into account any portrayal of criminal and violent behaviour with weapons.
- (2) Portrayal of potentially dangerous behaviour that are likely to incite the commission of any offence (including suicide, and infliction of self-harm) and that children and young people may potentially copy, shall receive a higher classification.
- (3) Films or serials with song and dance scenes comprising lyrics and gestures that have sexual innuendos would receive a higher classification.

(d) Language:

- (1) Language is of particular importance, given the vast linguistic diversity of our country. The use of language, dialect, idioms and euphemisms vary from region to region and are culture-specific. This factor has to be taken into account during the process of classification of a work in a particular category.
- (2) Language that people may find offensive includes the use of expletives. The extent of offence may vary according to age, gender, race, background, beliefs and expectations of the target audience from the work as well as the context, region and language in which the word, expression or gesture is used.
- (3) It is not possible to set out a comprehensive list of words, expressions or gestures that are acceptable at each category in every Indian language. The advice at different classification levels, therefore, provides general guidance to consider while judging the level of classification for content, based on this guideline.

(e) Nudity:

- (1) No content that is prohibited by law at the time being in force can be published or transmitted.
- (2) Nudity with a sexual context will receive a higher classification of "A".

(f) Sex:

No content that is prohibited by law at the time being in force can be published or transmitted. The classification of content in various ratings from U/A 16+ to "A" shall depend upon the portrayal of non-explicit (implicit) to explicit depiction of sexual behaviour.

(g) Violence:

Classification decisions shall take account of the degree and nature of violence in a work.

[F. No. 16(4)/2020-CLES]

Dr. RAJENDRA KUMAR, Addl. Secy.

IN THE HIGH COURT OF DELHI AT NEW DELHI

EXTRA ORDINARY CIVIL WRIT JURISDICTION

WRIT PETITION (CIVIL) NO. OF 2021

IN THE MATTER OF:

Press Trust of India

... Petitioner

Versus

Union of India & Anr

.... Respondents

**INDEX
VOLUME – II**

S.NO	PARTICULARS	PAGE NO
8.	<u>Annexure P-2:</u> A true copy of the Norms of Journalistic Conduct, 2010.	96-246
9.	<u>Annexure P-3:</u> A true copy of the Programme Code under Cable TV Rules, 1994.	247-265
10.	<u>Annexure P-4:</u> Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009	266-270
11.	<u>Annexure P-5:</u> A true copy of the Order dt. 09.03.2021 passed by this Hon'ble Court in WP (CIVIL) No. 3125/2021.	271-272

12.	<u>Annexure P-6:</u> A true copy of the Order dt. 10.03.2021 (Hon'ble Kerala High Court).	273-275
13.	<u>Annexure P-7</u> A true copy of the Order dated 19.03.2021 passed by this Hon'ble Court in WP (CIVIL) No. 3659/2021.	276-277
14.	<u>Annexure P-8</u> A true copy of the Clarification dated 10.06.2021 issued by the Ministry of Information and Broadcasting (I&B) (Digital Media Division)	278-282
15.	<u>Annexure P-9</u> A True Copy of the Order of Division Bench of Hon'ble High Court of Madras dated 23.06.2021 in WP (CIVIL) No. 13055/2021.	283-285
16.	An Application under section 151 CPC on behalf of the Petitioner for Stay with affidavit.	286-291
17.	An application under section 151 CPC for exemption from filing certified copies of annexures/dim annexures/documents and orders with affidavit.	292-296
18.	An Application under Section 151 CPC on behalf of the Petitioner seeking permission to file Lengthy Synopsis and List of Dates with Affidavit.	297-301
19.	Letter of Authorisation dated 30.06.2021	302

20.	Vakalatnama	303-304
21.	Proof of service – copy of email dated 02.07.2021	305

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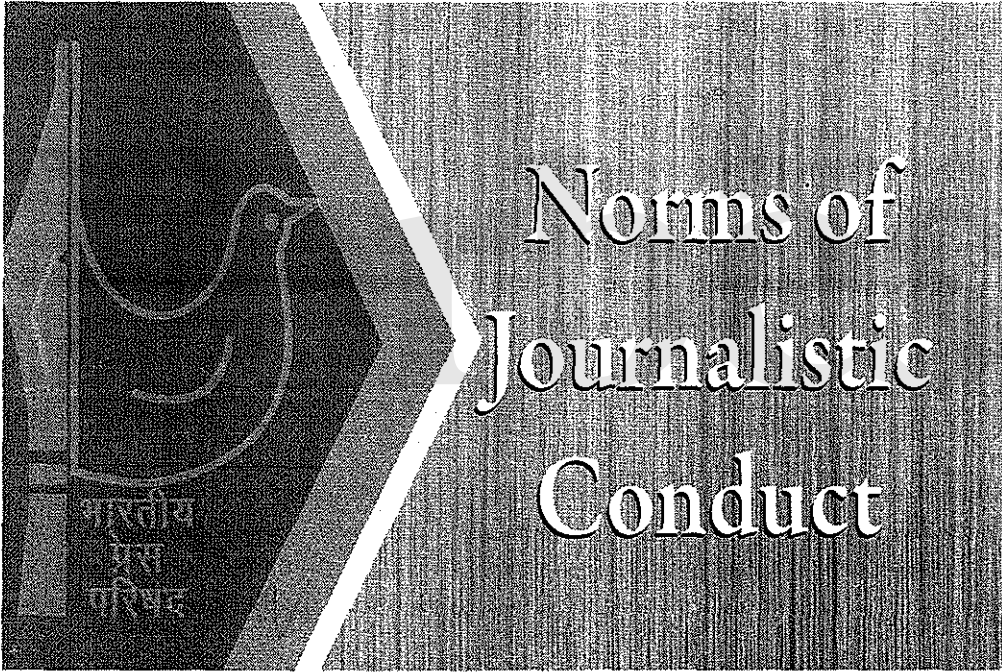
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Contents

Preface

**Indication of Heads/Norms in Editions Prior to 2018
& onwards**

Part A: Principles and Ethics

S. No.	Norm	Page No
1.	Accuracy and Fairness	1
2.	Advertisements	3
3.	Astrological Prediction	9
4.	Caste, Religion or Community References	9
5.	Caution against Defamatory Writings	12
6.	a) Caution in Criticising Judicial Acts	17
	b) Reporting News Pertaining to Court Proceedings	18
7.	Confidence to be Respected	19
8.	Conjecture, Comment and Fact	20
9.	Corrections	21
10.	Covering Communal Disputes/Clashes	21
11.	Criticism of Public Figures/Music Reviews	23
12.	Editor's Discretion	24
13.	Foreign Relations	25
14.	Fraudulent Activities	26
15.	Gender Based Reporting	26

TRUE COPY

16.	Glorification/Encouragement of Social Evils to be Eschewed	26
17.	Headlines	26
18.	HIV/AIDS and the Media – DO'S and DONT'S	27
19.	Illegal Reproduction	30
20.	Internal Disputes:	
	a) Management-Editor Relationship	30
	b) Management vis-à-vis Journalist : Functional Relationship	33
21.	Investigative Journalism, its Norms and Parameters	34
22.	Letters to Editor	37
23.	Newspapers May Expose Misuse of Diplomatic Immunity	38
24.	Newspapers to Avoid Crass Commercialism	38
25.	Newspapers to Eschew Suggestive Guilt	39
26.	Non-Return of Unsolicited Material	39
27.	Norms for Photo Journalism	40
28.	Obscenity and Vulgarity to be Eschewed	43
29.	Paid News	46
30.	Parameters of Right of Press to Comment on the Acts and Conduct of Profession	48

31.	Parameters of the Right of the Press to Comment on the Acts and Conduct of Public Officials	48
32.	Paramount National Interest	49
33.	Plagiarism	50
34.	Pre-publication Verification	51
35.	Privacy of Public Figures	52
36.	Professional Misconduct	54
37.	Professional Rivalry	55
38.	Recording Interviews and Phone Conversation	55
39.	Reporting on:	
	a) Information about the Mental Health Patient	55
	b) Suicide	56
	c) Natural Calamities	56
40.	Reporting Proceedings of Legislature	57
41.	Right of Reply	58
42.	Right to Privacy	59
43.	a) Trial by Media	61
	b) Guidelines on Sting Operations	63
44.	Unauthorised Lifting of News	64

45.	Violence not to be Glorified	64
-----	------------------------------	----

Part B: Guidelines on Specific Issues

a)	Norms for Observance by the Press in the Wake of Communal Disturbances, 1969	66
b)	Coverage of Handouts of Militants/ Terrorists-Guiding Principles-1991-1992	72
c)	HIV/AIDS and the Media	74
d)	Financial Journalism, 1996	87
e)	Election Reporting, 1996	89
f)	Guidelines on Undue Favours to Journalists 1988	93
g)	Right to Privacy-Public Figures and the Press Press, 1998	99
h)	Model Guidelines for Publishing Overseas Advertisements in Accordance with Emigration Act, 1983	101
i)	Guidelines for Protection of Child Rights	103
j)	Model Accreditation/Advertisements Rules-2014	105
k)	Model Advertisement Policy Guide - 2014	117
l)	Advertisement on Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homeopathy	121

TRUE COPY

- m) Principle Laid Down to Ascertain Paid News 122
- n) Guidelines on reporting of COVID-19 and Safety Measures for Journalists 123
- o) Guidelines for Medical Reporting 125
- p) Provision of Section-23 of the Protection of Children from Sexual Offences (POCSO) Act, 2012 127

Part C: Laws related to Press 128

Part D: Press Council's Power, Practices and Procedures 134

Part E : Good Practices in Journalism 139

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Preface

Media has the immense power to mould public opinion, perceptions and beliefs. The role of Media is to ensure information acquired from verified sources that empower people and guide them to make informed choices.

The year 2020 has been challenging as the world faced an unprecedented situation with the novel COVID-19 pandemic. Everything came to a standstill and the future of mankind itself came under cloud. At this crucial time, it is the media's role and responsibility, more so than ever, to educate people and provide them with unbiased and factual information.

In fulfillment of its mandate "freedom with responsibility", the Council has updated and revised the edition of Norms of Journalistic Conduct, 2020. This include guidelines for the media on reporting of COVID-19 and safety measures for journalists along with updates of norms based on the adjudications, pronouncements, and advisories issued by the Council during the year.

I certainly believe that 2020 Edition of Press Council's Norms of Journalistic Conduct would enlighten, encourage and guide the media persons and aspiring media workers to value and practice credible journalism.

Justice Chandramauli Kumar Prasad

Chairman

Press Council of India

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**Indication of Heads/Norms
in Editions Prior to 2018 & onwards**

S N	Norms	SN of Edition 2018	SN of Edition 2019 onwards
1	Accuracy and Fairness	1	1
2	Pre-publication Verification	2	34
3	Caution Against Defamatory Writings	3	5
4	Parameters of the Right of the Press to Comment on the Acts and Conduct of Public Officials	4	31
5	Criticism of Public Figures/Music Reviews	5	11
6	Right to Privacy	6	42
7	Privacy of Public Figures	7	35
8	Recording Interviews and Phone Conversation	8	38
9	Conjecture, Comment and Fact	9	8
10	Newspapers to Eschew Suggestive Guilt	10	25
11	Reporting Proceedings of Legislature	11	40

TRUE COPY

12	Caution in Criticising Judicial Acts Reporting News Pertaining to Court Proceedings	12 -	6(a) 6(b)
13	Corrections	13	9
14	Right of Reply	14	41
15	Letters to Editor	15	22
16	Editor's Discretion	16	12
17	Obscenity and Vulgarity to be Eschewed	17	28
18	Glorification/Encouragement of Social Evils to be Eschewed	18	16
19	Violence not to be Glorified	19	45
20	Covering Communal Disputes/Cashes	20	10
21	Headings not to be Sensational/Provocative and must Justify the Matter Printed under them	21	Now "Headlines" 17
22	Caste, Religion or Community References	22	4
23	Paramount National Interest	23	32
24	Foreign Relations	24	13
25	Newspapers May Expose Misuse of Diplomatic Immunity	25	23
26	Investigative Journalism, its Norms and Parameters	26	21
27	Confidence to be Respected	27	7

TRU COPY

28	Newspapers to Avoid Crass Commercialism	28	24
29	Fraudulent Activities	29	14
30	Professional Misconduct	30	36
31	Professional Rivalry	31	37
32	Plagiarism	32	33
33	Unauthorised Lifting of News	33	44
34	Illegal Reproduction	34	19
35	Non-Return of Unsolicited Material	35	26
36	Advertisements	36	2
37	Internal Disputes	37	20 (a)(b)
38	Astrological Prediction	38	3
39	Reporting on Natural Calamities	39	39
40	HIV/AIDS and the Media – DO'S and DONT'S	40	18
41	Trial by Media Guidelines on Sting Operations	41 -	43(a) 43(b)
42	Norms for Photo Journalism	42	27
43	Paid News	43	29
44	Gender Based Reporting	44	15
45	Parameters of Rights of Press to Comment on Profession	-	30

NORMS OF JOURNALIST CONDUCT

Part A: Principles and Ethics

The fundamental objective of journalism is to serve the people with news, views, comments and information on matters of public interest in a fair, accurate, unbiased, sober and decent manner. To this end, the Press is expected to conduct itself in keeping with certain norms of professionalism, universally recognised. The norms enunciated below and other specific guidelines appended thereafter, when applied with due discernment and adaptation to the varying circumstance of each case, will help the journalist to self-regulate his or her conduct.

1. Accuracy and Fairness

- i) The Press shall eschew publication of inaccurate, baseless, graceless, misleading or distorted material. All sides of the core issue or subject should be reported. Unjustified rumours and surmises should not be set forth as facts.
- ii) It is incumbent for newspapers to play a positive role in response to rumours affecting the credibility of financial institutions having public interface.
- iii) While it is the duty of the press to expose the wrong doings that come to their notice, such reports need to be backed by irrefutable facts and evidences.

- iv) Newspaper should bear in mind that their duty is to collect the news and place it in perspective but not to create news.
- v) Whenever any news is published on the basis of an FIR and is critical of the reputation of any person or body, the newspaper/journals must clearly state in the same news report that the report was only on the basis of the FIR and that veracity of the version of the FIR has got to be decided by the Court. The newspaper should also publish the version of the affected party.
- vi) The newspaper should not mis-construe or misquote the statements given by leader. The statements quoted in editorial should project the true spirit of what is being tried to be conveyed by them.
- vii) Articles which analyse and interpret the history on the basis of contemporaneous events cannot be said to be unethical.
- viii) When a newspaper is following a story on a person and carries series of report on the issue associated with him, it ought to publish the news of his exoneration with same prominence as that of series of previous reports.
- ix) The newspaper is liable for damaging effects of publishing alarming/sensational heading of news story based on Study having no established credentials.

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- x) Gossip reaches a localized few, a newspaper report reaches lakhs and therefore a more onerous responsibility devolves on the Press towards the society.
- xi) Media must overcome the tendency of trivialization of information and build credibility in the society so as to win the confidence of the readers.
- xii) Freedom of speech does not give right to newspapers to write about an institution or individual untrue facts even in a lighter note.
- xiii) An error attributing historically incorrect remarks of grave nature to an individual(s) shall not be made.

2. Advertisements

- i) Commercial advertisements are information as much as social, economic or political information. What is more, advertisements shape attitude and ways of life at least as much as other kinds of information and comment. Journalistic propriety demands that advertisements must be clearly distinguishable from news content carried in the newspaper.
- ii) No advertisement shall be published, which promotes directly or indirectly production, sale or consumption of cigarettes, tobacco products, wine, alcohol, liquor and other intoxicants.

- iii) Newspaper shall not publish advertisements, which have a tendency to malign or hurt the religious sentiments of any community or section of society.
- iv) Advertisements which offend the provisions of the Drugs and Magical Remedies (Objectionable Advertisement) Act as amended in 2002, or any other statute should be rejected.
- v) Newspapers should not publish an advertisement containing anything which is unlawful or illegal, or is contrary to public decency, good taste or to journalistic ethics or propriety.
- vi) Journalistic propriety demands that advertisements must be clearly distinguishable from editorial matter carried in the newspaper. Newspapers while publishing advertisements should specify the amount received by them. The rationale behind this is that advertisements should be charged at rates usually chargeable by a newspaper since payment of more than the normal rates would amount to a subsidy to the paper.
- vii) Publication of dummy or lifted advertisements that have neither been paid for, nor authorised by the advertisers, constitute breach of journalistic ethics especially when the paper raises a bill in respect of such advertisements.

- viii) Deliberate failure to publish an advertisement in all the copies of a newspaper offends against the standards of journalistic ethics and constitutes gross professional misconduct.
- ix) There should be total co-ordination and communication between the advertisement department and the editorial department of a newspaper in the matter of considering the legality propriety or otherwise of an advertisement received for publication.
- x) The editors should insist on their right to have the final say in the acceptance or rejection of advertisements, specially those which border on or cross the line between decency and obscenity.
- xi) Newspapers to carry caution notice with matrimonial advertisements carrying following text* "Readers are advised to make appropriate thorough inquiries before acting upon any advertisement. This newspaper does not vouch or subscribe to claim and representation made by the advertiser regarding the particulars of status, age, income of the bride/bridegroom".
- xii) An editor shall be responsible for all matters, including advertisements published in the

* The Hon'ble High Court of Delhi in connection with FAO No 65/1998 of Smt. Harjeet Kaur Vs. Shri Surinder Pal Singh directed the Press Council of India to instruct the newspaper to publish classified/ matrimonial advertisement by advising them to alongside publish the said Caution Notice in their newspapers.

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newspaper. If responsibility is disclaimed, this shall be explicitly stated beforehand.

- xiii) Tele-friendship advertisements carried by newspapers across the country inviting general public to dial the given number for 'entertaining' talk and offering suggestive tele-talk tend to pollute adolescent minds and promote immoral cultural ethos. The Press should refuse to accept such advertisements.
- xiv) Classified advertisements of health and physical fitness services using undignified languages, indicative of covert soliciting, are violative of law as well as ethics. The newspaper should adopt a mechanism for vetting such an advertisement to ensure that the soliciting advertisements are not carried.
- xv) Advertisements of contraceptive and supply of brand item attaching to the advertisement is not very ethical, given the social milieu and the traditional values held dear in our country. A newspaper has a sacred duty to educate people about precautionary measures to avoid AIDS and exhibit greater far sight in accepting advertisement even though issued by social welfare organisation.
- xvi) Employment News which is trusted as a purveyor of authentic news on government jobs should be more careful in accepting advertisements of only bonafide private bodies.

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- xvii) While accepting advertisements of educational institutes newspapers may ensure that such advertisements carry the mandatory statement that the concerned institutes are recognized under the relevant enactments of law.
- xviii) Advertisements play extremely vital role in shaping the values and concerns of the present day society and as more and more lenient view is taken of what is not the norm, the speedier may be acceptability of such matters in 'public perception' but at what cost is the essential point for consideration. It should be borne in mind that in the race to be globally relevant we do not leave behind the values that have earned India the unique place it enjoys globally on moral and ethical plane.
- xix) Publication of an advertisement for adoption of an unborn child is not only illegal but also unethical. The paper should duly scrutinize advertisements before publishing them.
- xx) The newspaper cannot be held responsible for publication of an advertisement given by the advertisement agency related to legal dispute on behalf of its client.
- xxi) All material published as an advertisement or promotional feature clearly so identified for the benefit of the public at large.

- xxii) The newspapers and periodicals should scrutinize the advertisement inputs from ethical as well as legal angles in view of the editor's responsibility for all contents including advertisement, under Section 7 of PRB Act, 1867. Revenue generation alone cannot and should not be the sole aim of the Press, juxtaposed much larger public responsibility.
- xxiii) Publication seeking Kidney from willing altruistic donor is not to be made.*
- xxiv) Journalists/Editors shall disclose the identity of advertiser or the person at whose instance advertisement is published.
- xxv) Newspaper shall not publish any advertisement intending to pass on as news using names and photographs of Hon'ble President and Prime Minister of India.
- xxvi) Newspaper(s) while publishing Advertisement/ Advertorials similar to news, shall be printed with a Heading "Advertisement/Advertorials" in bold letters with the font size equal to sub headings appearing in the page.
- xxvii) Publishing advertisement of jobs, only with phone numbers and without any further details such as the nature of work to be done by the prospective candidate in case of selection

*High Court of Kerala order dated 24.11.2017 in W.P. No. 33801/2017

and identity of the employer is unethical and be not published as it may facilitate "human trafficking" as lots of unsuspected boys and girls shall become victim.

Newspapers intending to publish such advertisements should publish the nature of work to be done, so as to avoid promoting unethical practices.

* "Disclaimer" published shall not absolve the newspaper from its responsibility.

3. Astrological Prediction

The promotion of astrological prediction and superstitious practices is likely to produce an unsettling effect on the minds of the readers, and is thus undesirable. The editors of general interest dailies and periodicals who believe in promoting a scientific temper and in combating superstition and fatalism, should avoid publication of astrological predictions. Readers who are interested in the subject of astrology can turn to specialized publications on the subject.

4. Caste, Religion or Community References

- i) In general, the caste identification of a person or a particular class should be avoided, particularly when in the context it conveys a sense or attributes a conduct or practice derogatory to that caste.

- ii) Newspapers are advised against the use of word 'Harijan' which has been objected to by some, and shall use the word Schedule Caste as per Article 341.*
- iii) An accused or a victim shall not be described by his caste or community when the same does not have anything to do with the offence or the crime and plays no part either in the identification of any accused or proceeding, if there be any.
- iv) Newspaper should not publish any fictional literature distorting and portraying the religious or well known characters in an adverse light offending the susceptibilities of large sections of society who hold those characters in high esteem, invested with attributes of the virtuous and lofty.
- (v) Commercial exploitation of the name of prophets, seers or deities is repugnant to journalistic ethics and good taste.
- vi) It is the duty of the newspaper to ensure that the tone, spirit and language of a write up is not objectionable, provocative, against the unity and integrity of the country, spirit of the constitution, seditious and inflammatory in nature or designed to promote communal disharmony. It should

* Modified keeping in view of provision of Constitution of India, 1950

also not attempt to promote balkanisation of the country.

- vii) One of the jobs of the journalists is also to bring forth to the public notice the plight of the weaker sections of society. They are the watchdogs on behalf of the society of its weaker sections.
- viii) While the changing norms of society have to be kept in mind, newspaper should also take due care in avoiding publication which may hurt sentiments of general public particularly on the occasion of days holding special significance.
- ix) To maintain communal harmony and bind the social fabric of the country, press ought to be more careful while publishing names of any organization and alleging their involvement in terrorist activities.
- x) Plea of technical error to defend provocative and out of context statement are inadmissible and constitute irresponsible journalism.
- xi) Caricature of a deity to depict a political scenario at relevant time cannot be said to be objectionable.
- xii) A news item published on the basis of book may not be in tune with general belief of the members of religious organization but on this ground alone the news item cannot be termed as illegal and unethical.

- xiii) The domain of ethics is much larger than law and ethicality of an action needs to be judged from a common man's point of view. The newspaper, therefore, may not publish matter that could portray the religious characters in an adverse light or offend the religious susceptibilities of large section of society who hold those characters, invested with attributes of the virtuous and lofty in high esteem.
- xiv) The press is expected to use its power to promote and contribute in maintaining communal harmony.
- xv) The fabric of a community is very delicate. The newspapers and periodicals should be sensitive in use of words with different connotation at different places and in different languages.
- xvi) The word/expression "Dalit" shall not be used to provoke or demean a community.

5. Caution Against Defamatory Writings

- i) Newspaper should not publish anything which is manifestly defamatory or libellous against any individual/organisation unless after due care and verification, there is sufficient reason/evidence to believe that it is true and its publication will be for public good.
- ii) Truth is no defence for publishing derogatory, scurrilous and defamatory material against a

private citizen where no public interest is involved.

- iii) No personal remarks which may be considered or construed to be derogatory in nature against a dead person should be published except in rare cases of public interest, as the dead person cannot possibly contradict or deny those remarks.
- iv) The Press has a duty, discretion and right to serve the public interest by drawing reader's attention to citizens of doubtful antecedents and of questionable character but as responsible journalists they should observe due restraint and caution in hazarding their own opinion or conclusion in branding these persons as 'cheats' or 'killers' etc. The cardinal principle being that the guilt of a person should be established by proof of facts alleged and not by proof of the bad character of the accused. In the zest to expose, the Press should not exceed the limits of ethical caution and fair comment.
- v) The Press shall not rely on objectionable past behaviour of a citizen to provide the background for adverse comments with reference to fresh action of that person. If public good requires such reference, the Press should make pre-publication inquiries from the authorities


concerned about the follow up action, if any, in regard to earlier adverse actions.

- (vi) Where the impugned publication is manifestly injurious to the reputation of the complainant, the onus shall be on the respondent to show that it was true or to establish that it constituted fair comment made in good faith and for public good.
- (vii) Newspapers cannot claim privilege or licence to malign a person or body claiming special protection or immunity on the plea of having published the item as a satire under special columns such as '*gossip*', '*parody*' etc.
- (viii) Publication of defamatory news by one paper does not give licence to others to publish news/information reproducing or repeating the same. The fact of publication of similar report by another publication does not bestow the status of accuracy on the charges.
- (ix) It is necessary that the press realise its responsibility to the society due to the unique position enjoyed by it in being able to interact directly with the citizenry and utilize its advantageous position for the betterment of the society and the advancement of the country rather than indulging in giving credence to rumours and sensationalism. It is also necessary that the press, particularly the small local press,

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learn to appreciate the clear distinction between matters of 'public interest' and 'those in public interest'. While gossips and social dealings may be found to be of interest by the public but they serve no public purpose or interest and the press should scrupulously avoid wasting its precious space on such matters.

- (x) Insertion of out-of-context, uncalled for and irrelevant statements likely to malign a person or an organisation must be eschewed.
- (xi) Even while a newspaper has the liberty or even duty to report political developments, that reporting may not be with angularity. Freedom of Press does not give licence to a newspaper to malign a political leader or mar his future political prospects by publishing fake and defamatory writings.
- (xii) It must be remembered by the Press that the freedom of speech and expression enshrined in the democratic set up and enjoyed by the fourth estate also casts on it a responsibility. The newspapers are not expected to use it as a tool by itself creating evidence and later using the evidence to make false propaganda in its own journal.
- (xiii) The Press deserves accolades for bringing to light the inducements offered to influence their reporting and such exposure will not amount to defamation.


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(xiv) **Locus Standi** In cases involving personal allegations /criticism, only the concerned person enjoying the *locus standi* can move the plaint or claim right to reply. However, a representative organisation of persons attached to an organisation or a sect / group has the *locus standi* to move complaints against a publication directly criticising the conduct of a leader.

(xv) **Public Interest and Public Bodies** As a custodian of public interest, the Press has a right to highlight cases of corruption and irregularities in public bodies but such material should be based on irrefutable evidence and published after due inquiries and verification from the concerned source and after obtaining the version of the person/authority being commented upon. Newspapers should refrain from barbed, stinging and pungent language and ironical/satirical style of comment. The attempt of the press should be to so shake up the institutions as to improve their working, not to destroy them or the public confidence in their working or demoralize the workforce. A corresponding duty of course devolves on them to ensure that in doing so they present a fair and balanced report, *uninfluenced* by any extraneous consideration. The Press as a custodian of public interest and a protector of its rights is also expected to bring correct information to its notice so that it is able

to correctly judge those to whom it has entrusted the responsibility of running the country.

- (xvi) The media and the authorities are two very important pillars of our democracy and for the government to function successfully in public interest a press as responsible as watchful is an essential pre-requisite.

6. a) Caution in Criticising Judicial Acts

- i) Excepting where the court sits 'in-camera' or directs otherwise, it is open to a newspaper to report pending judicial proceedings, in a fair, accurate and reasonable manner. But it shall not publish anything:

- which, in its direct and immediate effect, creates a substantial risk of obstructing, impeding or prejudicing seriously the due administration of justice; or
- is in the nature of a running commentary or debate, or records the paper's own findings conjectures, reflection or comments on issues, sub-judice and which may amount to abrogation to the newspaper the functions of the court; or
- regarding the personal character of the accused standing trial on a charge of committing a crime.

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- ii) Newspaper shall not as a matter of caution, publish or comment on evidence collected as a result of investigative journalism, when, after the accused is arrested and charged, the court becomes seized of the case: Nor should they reveal, comment upon or evaluate a confession allegedly made by the accused.
- iii) While newspapers may, in the public interest, make reasonable criticism of a judicial act or the judgement of a court for public good; they shall not cast scurrilous aspersions on, or impute improper motives, or personal bias to the judge. Nor shall they scandalise the court or the judiciary as a whole, or make personal allegations of lack of ability or integrity against a judge.
- iv) Newspaper shall, as a matter of caution, avoid unfair and unwarranted criticism which, by innuendo, attributes to a judge extraneous consideration for performing an act in due course of his/her judicial functions, even if such criticism does not strictly amount to criminal Contempt of Court.

6. b) Reporting News Pertaining to Court Proceedings

- i) Before publishing a news item about court proceedings, it will be appropriate for the correspondent and editor to ascertain its genuineness, correctness and authenticity from

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the records so that the concerned person can be held guilty and accountable for furnishing incorrect facts or wrong information about the court proceedings.

- ii) When proceedings of the Courts are held in public view in which the reporters of the newspaper are also present, it is not necessary for the newspaper to obtain the certified copy of Order before publication of the news.
- iii) Observations of a Court during hearing are often an attempt to solicit information, and not a part of records/Orders. Thus, there is need for a reporter to understand the difference to report correctly.
- iv) The media should not carry names of legal practitioners or name of the judges concerned, who dealt with particular cases.
- v) In the matter of interpretation of a court's judgments, a newspaper is expected to act reasonably and not quote selectively. They are also expected to clearly identify the selection so made.

7. Confidence to be Respected

If information is received from a confidential source, the confidence should be respected. The journalist cannot be compelled by the Press Council to disclose such source; but it shall not be regarded as a breach of journalistic ethics if the

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source is voluntarily disclosed in proceedings before the Council by the journalist who considers it necessary to repel effectively a charge against him/her. This rule requiring a newspaper not to publish matters disclosed to it in confidence, is not applicable where:

- i) consent of the source is subsequently obtained;
or
- ii) the editor clarifies by way of an appropriate footnote that since the publication of certain matters were in the public interest, the information in question was being published although it had been made 'off the record'.

8. Conjecture, Comment and Fact

- i) Newspaper should not pass on or elevate conjecture, speculation or comment as a statement of fact. All these categories should be distinctly identified.
- ii) Cartoons and caricatures depicting good humour are to be placed in a special category of news that enjoy more liberal attitude.
- iii) Though satire is an accepted form of literary writing, defamatory statement should not be carried in disguise.
- iv) Expression such as 'incompetent' or 'impotent' need to be read in the context of a political commentary, to determine the offensiveness.

9. Corrections

- i) When any factual error or mistake is detected or confirmed, the newspaper should *suo-motu* publish the correction promptly with due prominence and with apology or expression of regrets in a case of serious lapse.
- ii) The correction and apology or expression of regrets shall be published in the same edition of newspapers with due prominence.

10. Covering Communal Disputes/Clashes

- i) News, views or comments relating to communal or religious disputes/clashes shall be published after proper verification of facts and presented with due caution and restraint in a manner which is conducive to the creation of an atmosphere congenial to communal harmony, amity and peace. Sensational, provocative and alarming headlines are to be avoided. Acts of communal violence or vandalism shall be reported in a manner as may not undermine the people's confidence in the law and order machinery of the State. Giving community-wise figures of the victims of communal riot, or writing about the incident in a style which is likely to inflame passions, aggravate the tension, or accentuate the strained relations between the communities/religious groups concerned, or which has a potential to exacerbate the trouble, shall be avoided.

- ii) Journalists and columnists owe a very special responsibility to their country in promoting communal peace and amity. Their writings are not a mere reflection of their own feelings but help to large extent in moulding the feelings and sentiments of the society at large. It is therefore, of utmost importance that they use their pen with circumspection and restraint.
- iii) The role of media in such situations (Gujarat Carnage/Crisis) is to be peacemakers and not abettors, to be troubleshooters and not troublemakers. Let the media play their noble role of promoting peace and harmony among the people in the present crisis in Gujarat. Any trend to disrupt the same either directly or indirectly would be an anti-national act. There is a greater moral responsibility on the media to do their best to build up the national solidarity and to re-cement the communal harmony at all levels remembering the noble role they had played during the pre-independence days.
- iv) The media, as a chronicle of tomorrow's history, owes an undeniable duty to the future to record events as simple untailed facts. The analysis of the events and opinion thereon are a different genre altogether. The treatment of the two also thus has necessarily to be different. In times of crisis, facts unadorned and simply put, with due care and restraint, cannot be reasonably objected to in a democracy. However, a heavy

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responsibility devolves on the author of opinion articles. The author has to ensure that not only are his or her analysis free from any personal preferences, prejudices or notions, but also they are based on verified, accurate and established facts and do not tend to foment disharmony or enmity between castes, communities and races.

- v) While the role and responsibility of the media in breaking down communal fences and promoting harmony and national interest should not be undermined, it is also essential to allow the citizens their freedom of speech. The Press of India has necessarily to judge and balance the two.

11. Criticism of Public Figures/Music Reviews

- i) An actor or singer who appears on a public stage submits his performance to the judgement of public and as such the critics' comments having proximate nexus with the merits of artists performance cannot be held to be defamatory. However, the critics should refrain from writing anything, which could, be construed as remotely casting cloud on the artist's personal credibility.
- ii) An author cannot question the critical review of a book, unless it is actuated by malafide simply because some of the editors and scholars have commended the book, would not mean that other critiques have no right to express a contrary view.

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- iii) A critique constitutes the view of author and large reproduction from the book directly relevant to the critique cannot be held as violative of the copyright.

12. Editors' Discretion

- i) In the matter of writing an editorial, the editor enjoys a good deal of latitude and discretion. It is for him to choose the subject and it is also for him to use such language as he considers appropriate, provided that in writing the editorial he doesn't transgress the law and violate the norms of journalism and editorial comments, views published in the newspaper are couched in sober, dignified and socially acceptable language.
- ii) Selection of the material for publication as reports/articles/letters lies within the discretion of an editor. It is his duty to see that on a controversial issue of public interest all views are given equal prominence so that the people can form their independent opinion in the matter.
- iii) The editor should not publish the news report/article if his mind is in doubt about the truth of the news report/article. If the veracity of any part of the news report/article is in doubt, that portion should be omitted and rest be published provided the editor is satisfied that the remainder is substantially true and its publication will be for public benefit.

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- iv) It is a prerogative of editor to decide prominence of news it deserves in newspaper.
- v) Bearing in the mind the clear distinction between a 'news report' and 'an opinion article', the Editor has a liberty to edit an article but this liberty cannot be extended so as to delete the vital part or core contents of the article without seeking permission of the author, which may distort the intent, purpose and meaning behind the article.
- vi) Headline's should be carefully drawn adjudged against their instant impact on the readers.
- vii) Editor is responsible for all facts printed in newspaper(s).
- viii) The editors must bear in mind their duty towards society while publishing Job/employment advertisement with insufficient details as it may facilitate Human Trafficking and be done only after proper inquiry.
- ix) Editorials are expression of views of editors which is guaranteed under the Constitution of India and its sanctity does not depend upon any individual agreeing to the same or not.

13. Foreign Relations

Media plays a very important role in moulding public opinion and developing better understanding between countries. Objective reporting so as not to jeopardise friendly bilateral relations is therefore desirable.

14. Fraudulent Activities

Defrauding the public by closing down a publication subsequent to collection of subscription is unethical on the part of management of the paper/periodical/magazine. If the closure is inevitable, the subscription amount due should be returned to the subscribers.

15. Gender Based Reporting

Press should play a vital role in removing the age-old gender biases and even unilateral description as the news item could contribute to continuation of such bias to retard social balances and development.

16. Glorification/Encouragement of Social Evils to be Eschewed

Newspapers shall not allow their columns to be misused for writings which have a tendency to encourage or glorify social evils like Sati Pratha or ostentatious celebrations.

17. Headlines:

- i) In general and particularly in the context of communal disputes or clashes:
 - a. Provocative and sensational headlines are to be avoided;
 - b. Headings must reflect and justify the matter printed under them;
 - c. Headings containing allegations made in statements should either identify the body

or the source making it or at least carry quotation marks.

- ii) Headlines of an article/news story or news item attributes certain act on part of a person. while choosing the headline the paper should take care that they reflect the text of the report.

18. HIV/AIDS and the Media – DO'S and DONT'S

DO'S

- i) Media must inform and educate the people, not alarm or scare them.
- ii) Be objective, factual and sensitive.
- iii) Keep abreast with changing realities of fast-evolving infection.
- iv) Use appropriate language and terminology that is non-stigmatising.
- v) Ensure headlines are accurate and balanced.
- vi) Be responsible; give all sides of the picture, using voices of people living with HIV and AIDS (PLHIVs).
- vii) Dispel misconceptions about prevention and transmission.
- viii) Debunk myths about miracle cures and unscientific claims of protection from infection.

- ix) Highlight positive stories without underplaying seriousness of the issue.
- x) Uphold confidentiality of infected people, their families and associates.
- xi) Ensure photographs do not breach their confidentiality.
- xii) Ensure photo captions are accurate.
- xiii) Ensure gender sensitive reporting and avoid stereotyping.
- xiv) Obtain data from authorised sources as inaccurate reports have adverse impact on morale and increase stigma.
- xv) Journalists are responsible for ensuring interviewees understand repercussions of revelations/identification.
- xvi) Ensure informed consent, in written form wherever possible.
- xvii) Balance coverage of a negative story like HIV-related suicide or incidence of discrimination by including contacts of helplines/counselling centres.
- xviii) Broaden reportage to examine impact of infection on economic, business, political and development issues.

- xix) When in doubt contact the local network of positive people or state AIDS control society or existing terminology guidelines for clarification.
- xx) Ensure questions are not deeply personal or accusatory.
- xxi) Show PLHIVs in a positive light by portraying them as individuals instead of 'victims'.

DONT'S

- i) Don't sensationalise the story.
- ii) Don't make value judgements that seek to blame PLHIVs.
- iii) Don't use terms like 'scourge' to describe the infection or describe PLHIVs as AIDS carrier, prostitute, drug addict, AIDS patient/victim/sufferer.
- iv) Don't focus needlessly on how a PLHIV was infected.
- v) Don't identify children infected and affected by HIV and AIDS by name or through a photograph even with consent.
- vi) Don't use hidden cameras.
- vii) Avoid alarmist reports and images of the sick and dying that convey a sense of gloom, helplessness and isolation.

- viii) Don't use skull, crossbones, snakes or such visuals as graphics.
- ix) Avoid references to caste, gender or sexual orientation.
- x) Don't reinforce stereotypes about sexual minorities including those who are Lesbian, Gay, Bisexual or Transgender (LGBT).
- xi) Don't portray infected persons as victims, culprits or objects of pity.
- xii) Don't promote misleading advertisements related to HIV, STIs, skin diseases, tuberculosis and other opportunistic infections .
- xiii) Don't breach the confidentiality of those opting for voluntary testing.

19. Illegal Reproduction

- i) The Press shall not reproduce in any form offending portions or excerpts from a proscribed book.
- ii) The newspaper should give due credit to the Photographer whose photo work has been published by the newspaper.

20. Internal Disputes

(a) Management-Editor Relationship

- i) There is a well-recognised distinction between the editor and the journalists on the one hand

and the Manager, the Executive or the Administrator on the other, whatever the nomenclature that they may carry in a particular newspaper establishment. The duties and responsibilities of the editor and the management differ and whatever the co-ordination may be required to efficiently manage the establishment to bring out the journal, the functions of the two are separate and have to be kept as such.

Once the owner lays down the policy of the newspaper for general guidance, neither he nor anybody on his behalf can interfere with the day to day functioning of the editor and the journalistic staff working under him.

It is well established that the freedom of the press is essentially the freedom of the people to be informed accurately and adequately on all issues, problems, events and developments. In discharge of the editorial functions the editor is supreme and superior even to the owner.

The independence of the newspaper is essentially the independence of the editor from all internal and external restrictions. Unless the editor enjoys this freedom he will be unable to discharge his primary duty which is to the people and without such freedom, he can be held responsible in law for all that appears in the newspaper.

In the running of the newspaper, the managerial, administrative or business side of the newspaper has to be kept independent of its editorial side and should not be allowed to encroach upon or interfere with the editorial section. This precaution is to be taken even when the owner and the editor is the same. The proprietor must not allow his business interests and considerations to either dominate or interfere with the newspapers obligation to the people.

That is why there is also an obligation on the management to select a person as the editor who is competent and bears integrity of character and independence of mind.

The successful working of any arrangement in the ultimate analysis would depend on mutual understanding, cooperation and goodwill between the management, the editor, editorial journalist staff and all those who are faithfully working in the production of a paper.

If the co-ordination between the different departments including the editorial is effected by the Brand Management without in any way interfering with the freedom of the editor to include or exclude news or views, the length or details as well as their language and the place where they are to be published, and the prominence with which they should appear, there may not be much grievance that such co-

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ordination is in violation of the freedom of the editor. However, if the choice of the editor with regard to selection of material in any manner is sought to be interfered with, it is undoubtedly an unwarranted encroachment on the said freedom.

- (ii) The editor under no circumstances can be asked by the proprietor to serve his private interests. To require an editor to cater to the personal interests of the proprietor is not only to demean the office of the editor but also to encroach upon his status as a trustee of the society in respect of the contents of the newspaper. In any country which swears by the freedom and the independence of the press, an attempt by any proprietor of a newspaper to use his editor as his personal agent to promote his private interests and to compel him to act and to write, to serve them is both offensive and reprehensive. Any editor or for that matter any journalist who accepts or condescends to do such jobs not only degrades himself but also the profession of journalism and does not deserve the calling. He betrays the trust the society keeps in him for furnishing fair, objective and comprehensive news and views.

(b) **Management vis-à-vis Journalist :**
Functional Relationship

Direction of the newspaper management to the reporter to perform administrative / commercial side of the duty

other than his journalistic duty is an unethical practice and impinges on the independence of journalists, destroying the functional relationship.

21. Investigative Journalism, its Norms and Parameters

Investigative reporting has three basic elements:

- i) It has to be the work of the reporter, not of others he is reporting;
- ii) The subject should be of public importance for the reader to know;
- iii) An attempt is being made to hide the truth from the people.

The first norm follows as a necessary corollary from:

- (a) That the investigative reporter should, as a rule, base his story on facts investigated, detected and verified by himself and not on hearsay or on derivative evidence collected by a third party, not checked up from direct, authentic sources by the reporter himself.
- (b) There being a conflict between the factors which require openness and those which necessitate secrecy, the investigative journalist should strike and maintain in his report a proper balance between openness

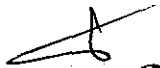
on the one hand and secrecy on the other, placing the public good above everything.

- (c) The investigative journalist should resist the temptation of quickies or quick gains conjured up from half-baked incomplete, doubtful facts, not fully checked up and verified from authentic sources by the reporter himself.
- (d) Imaginary facts, or ferreting out or conjecturing the non-existent should be scrupulously avoided. Facts, facts and yet more facts are vital and they should be checked and cross-checked whenever possible until the moment the paper goes to Press.
- (e) The newspaper must adopt strict standards of fairness and accuracy of facts. Findings should be presented in an objective manner, without exaggerating or distorting, that would stand up in a court of law, if necessary.
- (f) The reporter must not approach the matter or the issue under investigation, in a manner as though he were the prosecutor or counsel for the prosecution. The reporter's approach should be fair, accurate and balanced. All facts properly checked up, both for and against the core issues, should be distinctly and separately stated, free from any one-sided inferences or unfair comments. The

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tone and tenor of the report and its language. should be sober, decent and dignified, and not needlessly offensive, barbed, derisive or castigatory, particularly while commenting on the version of the person whose alleged activity or misconduct is being investigated. Nor should the investigative reporter conduct the proceedings and pronounce his verdict of guilt or innocence against the person whose alleged criminal acts and conduct were investigated, in a manner as if he were a court trying the accused.

- (g) In all proceedings including the investigation, presentation and publication of the report, the investigative journalist newspaper should be guided by the paramount principle of criminal jurisprudence, that a person is innocent unless the offence alleged against him is proved beyond doubt by independent, reliable evidence.
- (h) The private life, even of a public figure, is his own. Exposition or invasion of his personal privacy or private life is not permissible unless there is clear evidence that the wrongdoings in question have a reasonable nexus with the misuse of his public position or power and has an adverse impact on public interest.


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- (i) Though the legal provisions of Criminal Procedure do not in terms, apply to investigating proceedings by a journalist, the fundamental principles underlying them can be adopted as a guide on grounds of equity, ethics and good conscience.
- (j) To say that the press should not publish any information, till it is officially released would militate against the spirit of investigative journalism and even to an extent the purpose of journalism.
- k) When any news item affecting somebody's character is proposed to be published in the newspaper on the basis of any CD or other such device then first the authenticity of such evidence should first be ascertained through a forensic expert.

22. Letters to Editor

- i) An editor who decides to open his columns for letters on a controversial subject, is not obliged to publish all the letters received in regard to that subject. He is entitled to select and publish only some of them either in entirety or the gist thereof. However, in exercising this discretion, he must make an honest endeavour to ensure that what is published is not one-sided but represents a fair balance between the views for and against with respect to the principal issue in controversy.

- ii) In the event of rejoinder upon rejoinder being sent by two parties on a controversial subject, the editor has the discretion to decide at which stage to close the continuing column.
- iii) Editor may have a right to edit a 'letter to editor' but such editing should not deviate from the intended view.

23. Newspapers May Expose Misuse of Diplomatic Immunity

The media shall make every possible effort to build bridges of co-operation, friendly relations and better understanding between India and foreign States. At the same time, it is the duty of a newspaper to expose any misuse or undue advantage of the diplomatic immunities.

24. Newspapers to Avoid Crass Commercialism

- i) While newspapers are entitled to ensure, improve or strengthen their financial viability by all legitimate means, the Press shall not engage in crass commercialism or unseemly cut-throat commercial competition with their rivals in a manner repugnant to high professional standards and good taste.
- ii) Predatory price wars/trade competition among newspapers, laced with tones disparaging the products of each other, initiated and carried on in print, assume the colour of unfair 'trade' practice, repugnant to journalistic ethics. The question as when it assumes such an unethical

character is one of the fact depending on the circumstances of each case.

- iii) The practice of taking security deposit by an editor from the journalists at the time of their appointment is unethical.
- (iv) The media house must retain its impartiality in functioning as media house and reporting cannot be permitted to become subservient to other business interests which the owner of the media house may have. When such private interest conflict with public duty of such vast magnitude, segregation of the two is not only justified but essential.

25. Newspapers to Eschew Suggestive Guilt

- i) Newspapers should eschew suggestive guilt by association. They should not name or identify the family or relatives or associates of a person convicted or accused of a crime, when they are totally innocent and a reference to them is not relevant to the matter being reported.
- ii) It is contrary to the norms of journalism for a paper to identify itself with and project or promote the case of any one party in the case of any controversy/dispute.

26. Non-return of Unsolicited Material

- i) A paper is not bound to return unsolicited material sent for consideration of publication.

However, when the same is accompanied by stamped envelope, the paper should make all efforts to return it.

- ii) Whenever articles from the contributors are published free of remuneration, there must be an agreement not to pay and the newspaper should follow this practice as a rule.

27. Norms for Photo Journalism

- i) Since a picture or visual presentation of news creates a stronger and more lasting impression on the readers and viewers than mere words, photojournalists and other visual news producers have to be a lot more responsible and careful in the discharge of their duties. They must, therefore, ensure that in keeping with the high standards of journalism, their presentations are always in public interest, fair, accurate, unbiased, sober and decent.

DO'S'

1. Images should be accurate and comprehensive and the subjects be presented in proper context.
2. All subjects should be treated with respect and dignity. Special consideration be given to vulnerable subjects and victims of crime or tragedy be treated compassionately. Private grief be intruded only when the

public has an overriding and justifiable interest in sharing or viewing it.

3. While editing a visual, the maintenance of the integrity of the content and context of the photographic images should be ensured. Images should not be manipulated neither should there be addition or alteration in sound in any way that can mislead viewers or misrepresent subjects.
4. Strive to be unobtrusive and humble in dealing with subjects.
5. The integrity of the photographic moment should be respected.
6. Pictures should not reflect anything that is obscene, vulgar or offensive to good public taste.
7. Strive to ensure that the public's business is conducted in public. Defend the rights of access for all journalists.
8. Strive for total and unrestricted access to subjects and recommend alternatives to shallow or rushed opportunities.
9. Seek a diversity of viewpoints and work to show unpopular or unnoticed points of view.

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10. Strive by example and influence to maintain the spirit and high standards expressed in this code. When confronted with situations in which proper action is not clear, seek the counsel of those who exhibit the highest standards of the profession.

DONT'S

1. While photographing subjects do not intentionally contribute to, alter, or seek to alter or influence events.
2. The privacy of an individual should not be intruded or invaded unless it is outweighed by genuine overriding public interest, not by a prurient or morbid curiosity.
3. While covering terrorist attacks, communal riots or other acts of violence, do not show mangled corpses or such other images as cause revulsion or terror or rouse communal or sectarian passions.
4. Do not get manipulated by staged photo opportunities.
5. Do not accept gifts, favours or compensation from those who might seek to influence the coverage.

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6. Avoid political, civic or business involvements or employment that could compromise or appear to compromise their professional independence.
 7. No payment or material reward should be made to the sources or subject for information or participation.
 8. The work should not reflect any kind of biases.
 9. Do not intentionally sabotage the efforts of other journalists.
- ii) Highlighting gambling menace being ignored by the Police through a photograph of police official standing near a covert gambling den only for symbolic purpose, cannot be considered as unethical or violation of journalistic norms.
 - iii) 'Dignity in death' is a principle widely observed in civil society and unless the photographic depiction of such event directly impacts the public interest or purpose, the media would be well advised to avoid it.


28. Obscenity and Vulgarity to be Eschewed

- i) Newspapers/journalists shall not publish anything which is obscene, vulgar or offensive to public good taste.
- ii) Newspapers shall not display advertisements which are vulgar or which, through depiction of

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a woman in nude or lewd posture, provoke lecherous attention of males as if she herself was a commercial commodity for sale.

- iii) Whether a picture is obscene or not, is to be judged in relation to three tests; namely
- a) Is it vulgar and indecent?
 - b) Is it a piece of mere pornography?
 - c) Is its publication meant merely to make money by titillating the sex feelings of adolescents and among whom it is intended to circulate? In other words, does it constitute an unwholesome exploitation for commercial gain. Other relevant considerations are whether the picture is relevant to the subject matter of the magazine. That is to say, whether its publication serves any preponderating social or public purpose, in relation to art, painting, medicine, research or reform of sex.
- iv) A photograph or a painting is a work of art and the artist enjoys artistic liberty in its portrayal. However, it is to be understood that a work of art is enjoyed, judged and appreciated by the connoisseurs. The pages of a newspaper may not be the most appropriate place for such painting.
- v) The globalisation and liberalisation does not give licence to the media to misuse freedom of the


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press and to lower the values of the society. The media performs a distinct role and public purpose which require it to rise above commercial consideration guiding other industries and businesses. So far as that role is concerned, one of the duties of the media is to preserve and promote our cultural heritage and social values.

- vi) Columns such as 'Very Personal' in a newspaper replying to personal queries of the readers must not become grossly offensive presentations, which either outrage public decency or corrupt public moral.
- vii) The attempt of the press should be to ensure coverage that is in keeping with the norms of the society at large and not merely a few. It is also our duty to prevent the degeneration of culture and standards and press with its reach and impact carries an immense potential in moulding the psyche and thought process of a society.
- viii) The Indian reader is much more mature and able to appreciate good journalism and in the long run, the attempts to copy the west by promoting the 'so-called popular permissiveness' may defeat the very aim of the paper to boost circulation.
- ix) The newspaper may expose the instances of immoral activities in public places through its

writings but with proper caution of restrained presentation of news or photographic evidence.

- x) The newspapers should take due care of people's sentiments while publishing articles on sexuality.

29. Paid News

- i) Newspaper should specifically mention "Marketing Initiative" on Supplement/special edition itself to distinguish them from various reports.
- ii) The newspaper should not mis-construe or misquote the statements given by leader. The statements quoted in editorial should project the true spirit of what is being tried to be conveyed by them.
- iii) Columns of news items which largely indicate names of voters on Caste basis and supporters of the candidate of particular political party, such tenor and manner of presentation of news establish the report to be paid news.
- iv) Political news published in competing newspaper with similar content strongly suggests such reports to be paid news.
- v) Two newspapers publishing same news item verbatim during election days is not accidental and it is evident that such news items have been published for consideration.

- vi) Manner of presentation of a news item that to in a favor of a particular party as also the appeal for voting in a favor of a particular party is suggestive of paid news.
- vii) Projecting a candidate's success in Election who is yet to file a nomination is suggestive of paid news.
- viii) News Reports on Campaign meeting and states enthusiasm because film stars were present cannot be termed as paid news.
- ix) While covering news on election, the newspapers are advised to ensure balance in publishing report/interview of candidates.
- x) During the course of election, subject to conditions laid down by the Election Commission of India, newspapers are free to make an honest assessment of prospects of candidates or the parties and its publication would not be paid news so long it is not established that consideration passed on for such publication.
- xi) Newspapers shall not publish any news survey predicting the victory of any political party without verification of it.

30. Parameters of Right of Press to Comment on Profession

No newspaper(s)/columnist(s) shall abuse any profession, under the garb of freedom of speech/expression which is guaranteed under the Indian Constitution, since freedom of speech is not absolute.

31. Parameters of the Right of the Press to Comment on the Acts and Conduct of Public Officials

- i) So far as the government, local authority and other organs/institutions exercising governmental power are concerned, they cannot bring charge of defamation for reports critical of their acts and conduct relevant to the discharge of their official duties unless the official establishes that the publication was made with reckless disregard for the truth. However, judiciary, which is protected by the power to punish for contempt of court, the Parliament and Legislatures, protected as their privileges are by Articles 105 and 194 respectively of the Constitution of India, represent exception to this rule.
- ii) The central and local bodies are not entitled to bring a civil or criminal action for defamation in respect of article/report criticising their functioning.
- iii) Publication of news or comments/information on public officials conducting investigations should not have a tendency to help the

commission of offences or to impede the prevention or detection of offences or prosecution of the guilty. The investigative agency is also under a corresponding obligation not to leak out or disclose such information or indulge in misinformation.

- iv) The Official Secrets Act, 1923 or any other similar enactment or provision having the force of law equally bind the press or media though there is no law empowering the state or its officials to prohibit, or to impose a prior restraint upon the Press/Media.
- v) Those who hold public office and by their own conduct give scope for criticising them, cannot be heard to complain against such criticism.
- vi) Satirical comments, ridiculing and denigrating the first citizen of the country are uncalled for and beyond the call of fair journalistic comment.
- vii) While every journalist has a duty and freedom of critical evaluation of the functioning of public department/personnel, such evaluation has to be based on proper documents and verification.
- viii) It is obligatory on the part of an institution rendering public service to be open to bonafide critical examination of its functioning.

32. Paramount National Interest

- i) Newspapers shall, as a matter of self-regulation, exercise due restraint and caution in presenting

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any news, comment or information which is likely to jeopardise, endanger or harm the paramount interests of the State and society, or the rights of individuals with respect to which reasonable restrictions may be imposed by law on the right to freedom of speech and expression under clause (2) of Article 19 of the Constitution of India.

- ii) Publication of wrong/incorrect map is a very serious offence. It adversely affects the territorial integrity of the country and warrants prompt and prominent retraction with regrets.
- iii) Though the sources normally used are not to be disclosed, however, in case of serious allegations where matter is related to national interest and security it is incumbent/imperative/mandatory on part of the press to establish the authenticity of information given by the source.
- iv) An article concerning a sensitive issue which can defame a nation cannot be published without thorough verification. Newspaper as well as News Agency should verify the authenticity of the article before its publication.

33. Plagiarism

- i) Using or passing off the writings or ideas of another as one's own, without crediting the source, is an offence against ethics of journalism.
- ii) Violation of copyright also constitutes violation of journalistic norms.

- iii) Printing a reworded article of a writer by the paper without acknowledging his work is unethical.

34. Pre-Publication Verification

- i) On receipt of a report or article of public interest and benefit containing imputations or comments against a citizen, the editor should check with due care and attention its factual accuracy apart from other authentic sources- with the person or the organisation concerned to elicit his/her or its version, comments or reaction and publish the same alongside with due correction in the report where necessary. In the event of lack or absence of response, a footnote to that effect may be appended to the report.
- ii) Publication of news such as those pertaining to cancellation of examinations or withdrawal of candidates from election should be avoided without proper verification and cross checking.
- iii) A document, which forms a basis of a news report, should be preserved at least for six months.
- iv) Newspaper should carry the Press Release only after establishing its authenticity which should bear the signature of authorized signatory and Departmental seal.

- v) News reports that stem from a gossip or so called roving enquiry affecting the personal character of an individual, are not worthy of publication.
- vi) Personal animosity should not be reflected in a news item. Publishing news without any material even to *prima facie* substantiate the news item with a view to malign a person constitute an act of omission and commission.
- vii) Wrongly attributing historically incorrect remarks of grave nature to a political leader, which have far reaching repercussions without applying due diligence calls for severe action. The publication ought to verify the source of such statement at pre-publication stage.
- viii) Allegations of dowry harassment are subject to scrutiny by court of law and the changes under Section 498-A of an I.P.C. should be reported upon by the media with more sensitivity avoiding publication of photographs of accused. The editor in such cases should also verify the stand of the accused.
- ix) Sacking of an officer over graft charges is a verifiable fact and the newspaper is expected to carry out such verification. Subsequent clarifications cannot mitigate the damage.

35. Privacy of Public Figures

- i) Right to Privacy is an inviolable human right. However, the degree of privacy differs from

person to person and from situation to situation. The public person who functions under public gaze as an emissary/representative of the public cannot expect to be afforded the same degree of privacy as a private person. His acts and conduct as are of public interest ('public interest' being distinct and separate from 'of interest to public') even if conducted in private may be brought to public knowledge through the medium of the press. The press has however, a corresponding duty to ensure that the information about such acts and conduct of public interest of the public person is obtained through fair means, is properly verified and then reported accurately. For obtaining information in respect of acts done or conducted away from public gaze, the press is not expected to use surveillance devices. For obtaining information about private talks and discussion while the press is expected not to badger the public persons, the public persons are also expected to bring more openness in their functioning and co-operate with the press in its duty of informing the public about the acts of their representatives.

- ii) The interviews/articles or arguments pertaining to public persons which border on events that are in public knowledge, if reported correctly, cannot be termed as intrusion into private life. There is a very thin line between public and private life and public persons should not be too thick skinned to criticism.

- iii) Newspapers are allowed latitude in criticising persons who are in seats of power because their conduct discloses public interest provided their criticism is not motivated to gratify private spite of opponent/rival of public figure.
- iv) The family of public figures are not valid journalistic subject, more so if its reporting covers the minors. If "public interest" overrides the minor's right to privacy it will be proper to seek prior consent of the parents.
- v) When the individual concerned himself or herself reveals facts about private life before a large gathering then the shield of privacy should be deemed to be abandoned by the individual.

36. Professional Misconduct

- i) Blackmailing or extortion of money from people under threat of maligning them through the columns of newspaper amounts to gross violation of journalistic norms.
- ii) The Newspaper should not involve the journalists in collecting advertisements.
- iii) Using the title of some other newspaper by a media house and declining corrective step is unethical and reprehensible.
- iv) Carrying contents materially different from those which the contributor provided to the paper is unethical.

37. Professional Rivalry

Newspaper columns should not be misused by rival newspapers to gratify their private spite against each other out of commercial rivalry.

38. Recording Interviews and Phone Conversation

- i) The Press shall not tape-record anyone's conversation without that person's knowledge or consent, except where the recording is necessary to protect the journalist in a legal action, or for other compelling good reason.
- ii) The Press shall, prior to publication, delete offensive epithets used during such conversation.
- iii) Newspapers are required to give the context in which the statement is made by a political leader, but this does not extend to the liberty of giving it a meaning of their own.

39. Reporting on:**a) Information regarding Mental Health Patients**

The media shall not publish photograph or any other information in respect of person undergoing treatment at mental health establishment without the consent of the person with mental illness.

b) Suicide .

Newspapers and news agencies while reporting on suicide cases shall **not** :

1. Publish stories about suicide prominently and unduly repeat such stories;
2. use language which sensationalize or normalizes suicide, or presents it as a constructive solution to problems;
3. explicitly describe the method used;
4. provide details about the site/location;
5. use sensational headlines;
6. use photographs, video footage or social media links.

c) Natural Calamities

- (i) Facts and data relating to spread of epidemics or natural calamities shall be checked up thoroughly from authentic sources and then published with due restraint in a manner bereft of sensationalism, exaggeration, surmises or unverified facts.
- (ii) Natural or manmade hazards become disasters through acts of commission and omission of the society. Therefore, the disastrous impact can be minimized by

preventive action taken by all the stakeholders including the media.

- (iii) Media should give wide publicity to the do's and don'ts and the potential benefits of disaster mitigation so that the society follows them before, during and after the occurrence of the disasters. People should be detailed on standard guidelines. The issues of children and women which are the most vulnerable groups during and after disaster should be handled carefully by the media.
- (iv) It is necessary to have complete cooperation between the media and all governmental and non governmental agencies. The extent of the coordination and cooperation between them determines the nature, the degree and the scale of the preparedness to prevent or meet the disasters.

40. Reporting Proceedings of Legislature

The newspapers have a duty to report faithfully the proceedings of either House of Parliament, Legislative Assembly and in this regard the newspapers shall not be liable for any proceedings civil or criminal in any court unless it is proved that reportings have been made with malice. However, the newspapers should not publish any report based on proceedings of a sitting of either House of Parliament or Legislative Assembly or as the case may be either House of the Legislature of a State, which is not open to the media.


41. Right of Reply

- i) The newspaper should promptly and with due prominence, publish either in full or with due editing, free of cost, at the instance of the person affected or feeling aggrieved/or concerned by the impugned publication, a contradiction/reply/clarification or rejoinder sent to the editor in the form of a letter or note. If the editor doubts the truth or factual accuracy of the contradiction/reply/clarification or rejoinder, he shall be at liberty to add separately at the end, a brief editorial comment doubting its veracity, but only when this doubt is reasonably founded on unimpeachable documentary or other evidential material in his/her possession. This is a concession which has to be availed of sparingly with due discretion and caution in appropriate cases.
- ii) However, where the reply/contradiction or rejoinder is being published in compliance with the directions of the Press Council, it is permissible to append a brief editorial note to that effect.
- iii) Right of rejoinder cannot be claimed through the medium of Press Conference, as publication/coverage of a news of a conference is within the discretionary powers of an editor.

- iv) Freedom of the Press involves the readers' right to know all sides of an issue of public interest. An editor, therefore, shall not refuse to publish the reply or rejoinder merely on the ground that in his opinion the story published in the newspaper was true. That is an issue to be left to the judgment of the readers. It also does not behove an editor to show contempt towards a reader.
- v) The press has to remember that it is not a prosecutor in any investigation and should be guided by the paramount principle of a person's innocence unless the alleged offence is proved beyond doubt by independent reliable evidence and, therefore, even within the constraint of space, the material facts should find space in the rejoinder so that the public, as the ultimate judge of any matter, is guided by the complete and accurate facts in forming its opinion. The readers' right to know all sides of any issue of public importance is a natural corollary of the freedom enjoyed by the press in a democracy.

42. Right to Privacy

- i) The Press shall not intrude or invade the privacy of an individual, unless outweighed by genuine overriding public interest, not being a prurient or morbid curiosity. So however, that once a matter becomes a matter of public record, the right to privacy no longer subsists and it becomes


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a legitimate subject for comment by the Press and the Media, among others. Special caution is essential in reports likely to stigmatise women.

Explanation: Things concerning a person's home, family, religion, health, sexuality, personal life and private affairs are covered by the concept of PRIVACY excepting where any of these impinges upon the public or public interest.

- ii) Caution against Identification: While reporting crime involving rape, abduction or kidnap of women/females or sexual assault on children, or raising doubts and questions touching the chastity, personal character and privacy of women, the names, photographs of the victims or other particulars directly or indirectly* leading to their identity shall not be published.
- iii) Minor children and infants who are the offspring of sexual abuse or 'forcible marriage' or illicit sexual union shall not be identified or photographed.
- iv) Intrusion through photography into moments of personal grief shall be avoided. However, photography of victims of accidents or natural calamity may be in larger public interest.
- v) The newspaper is not expected to turn a blind eye towards the classified advertisements which are *prima-facie* in a violation of Suppression of the Immoral Traffic (Prevention) Act, 1956.

* Hon'ble Supreme Court of India order dated 2.8.2018 in MA 2069/2018 in WP No. 473/2005.

- vi) Due care should be applied by the paper by not disclosing the real names of persons involved in incident affecting personal lives.
- vii) Publishing person's address in a newspaper which has no direct relevance to the news report, is a violation of his right to privacy.
- viii) Publishing photograph of police constable resting in barrack after duty hours, to portray his shirking from duty not only constitute invasion of his privacy but also unethical.

43. a) Trial By Media

Introduction

The media and judiciary are two vital pillars of democracy and natural allies, one compliments the other towards the goal of a successful democracy. Measures which are necessary for due process of law need to take precedence over freedom of speech. In a conflict between fair trial and freedom of speech, fair trial has to necessarily prevail because any compromise of fair trial for an accused will cause immense harm and defeat justice delivery system. Thus, mediapersons should be duly trained and imparted basic knowledge about functioning of courts and processes of law;

- i) An accused is entitled to the privilege of presumption of being innocent till guilt is pronounced by the Court.

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- ii) The media reports should not induce the general public to believe in the complicity of the person indicted as such kind of action brings undue pressure on the course of fair investigation by the police.
- iii) Publishing information based on gossip about the line of investigation by the official agencies on the crime committed gives such publicity to the incident that may facilitate the person who indeed committed the crime to move to safer place.
- iv) It is not always advisable to vigorously report crime related issues on a day to day basis nor to comment on supposed evidence of the crime without ascertaining the factual matrix.
- v) While media's reporting at the investigation stage in a criminal case may ensure a speedy and fair investigation, disclosure of confidential information may also hamper or prejudice investigation. There cannot, therefore, be an unrestricted access to all the details of the investigation.
- vi) Victim, witnesses, suspects and accused should not be given excessive publicity as it is amount to invasion of their privacy rights.
- vii) Identification of witnesses by the newspapers/ media endangers them to come under pressure from both, the accused or his associates as well


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as investigative agencies. Thus, media should not identify the witnesses as they may turn hostile succumbing to the pressure.

- viii) The suspect's picture should not be shown as it may create a problem during 'identification parades' conducted under the Code of Criminal Procedure for identifying the accused.
- ix) The media is not expected to conduct its own parallel trial or foretell the decision putting undue pressure on the judge, the jury or the witnesses or prejudice a party to the proceedings.
- x) The reporting on post trial/hearing often consists of reporting on the decision handed down. But when there is a time lag between the conclusion of the proceedings and the decision, the comments on the concluded proceedings, including discussion on evidence and/or arguments, aimed at influencing the forthcoming decision must be avoided.
- xi) Media having reported an initial trial is advised to follow up the story with publication of final outcome by the court, whenever applicable.

(b) Guidelines on Sting Operations

- i) A newspaper proposing to report a sting operation shall obtain a certificate from the person who recorded or produced the same certifying that the operation is genuine and bonafide.

- ii) There must be concurrent record in writing of the various stages of the sting operation.
- iii) Decision to report the sting operation should be taken by the editor after satisfying himself of the public interest of the matter and ensuring that report complies with all legal requirements.
- iv) Sting operation published in print media should be scheduled with an awareness of the likely reader in mind. Great care and sensitivity should be exercised to avoid shocking or offending the reader.

44. Unauthorised Lifting of News

- i) The practice of lifting news from other newspapers publishing them subsequently as their own, ill-comports the high standards of journalism. To remove its unethicallity the 'lifting' newspaper must duly acknowledge the source of the report.
- ii) The position of features articles is different from 'news': Feature articles shall not be lifted without permission/ proper acknowledgement.

45. Violence not to be Glorified

- i) Photo Coverage on Terrorist Attack, Communal Clashes and Accidents. While reporting news with regard to terrorist attacks or communal riots, the media should refrain from publishing/ telecasting pictures of mangled corpses or any

other photographic coverage which may create terror, or revulsion or ignite communal passion among people.

- ii) Newspapers/Journalists shall avoid presenting acts of violence, armed robberies and terrorist activities in a manner that glorifies the perpetrators on their acts, declarations or death in the eyes of the public. Publication of interviews of anti-social elements by the newspapers glorifying the criminals and their activities with the resultant effects are to be avoided.

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Part B : Guidelines on Specific Issues

a) Norms for Observance by the Press in the Wake of Communal Disturbances-1969

Recognising that the Press which enjoys the utmost freedom of expression has a great and vital role to play in educating and moulding public opinion on correct lines, in regard to the need for friendly and harmonious relations between the various communities and religious groups forming the fabric of Indian political life and in mirroring the conscience of the best minds of the country to achieve national solidarity, the Press Council of India considers that this object would be defeated, communal peace and harmony disturbed and national unity disrupted if the Press does not strictly adhere to proper norms and standards in reporting on or commenting on matters which bear on communal relations. Without attempting to be exhaustive, the Council considers the following as offending against journalistic proprieties and ethics:

1. Distortion or exaggeration of facts or incidents in relation to communal matters or giving currency to unverified rumours, suspicions or inferences as if they were facts and base their comments on them.
2. Employment of intemperate or unrestrained language in the presentation of news or views, even as a piece of literary flourish or for the purpose of rhetoric or emphasis.

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3. Encouraging or condoning violence even in the face of provocation as a means of obtaining redress of grievances whether the same be genuine or not.
4. While it is the legitimate function of the Press to draw attention to the genuine and legitimate grievances of any community with a view to having the same redressed by all peaceful, legal and legitimate means, it is improper and a breach of journalistic ethics to invent grievances, or to exaggerate real grievances, as these tend to promote communal ill-feeling and accentuate discord.
5. Scurrilous and untrue attacks on communities, or individuals, particularly when this is accompanied by charges attributing misconduct to them as due to their being members of a particular community or caste.
6. Falsely giving a communal colour to incidents which might occur in which members of different communities happen to be involved.
7. Emphasising matters that are not to produce communal hatred or ill-will, or fostering feelings of distrust between communities.
8. Publishing alarming news which are in substance untrue or make provocative comments on such news or even otherwise calculated to embitter relations between



different communities or regional or linguistic groups.

9. Exaggerating actual happenings to achieve sensationalism and publication of news which adversely affect communal harmony with banner headlines or in distinctive types.
10. Making disrespectful, derogatory or insulting remarks on or reference to the different religions or faiths of their founders.

Guidelines Issued by the Press Council for Observance by the State Governments and the Media in Relation to Communal Disturbances 1991:

- i. The State Government should take upon themselves the responsibility of keeping a close watch on the communal writings that might spark off tension, destruction and death, and bring them to the notice of the Council;
- ii. The Government may have occasion to take action against erring papers or editors. But it must do so within the bounds of law. If newsmen are arrested, or search and seizure operations become necessary, it would be healthy convention if such developments could be reported to the Press Council within 24 to 48 hours followed by a detailed note within a week;
- iii. Under no circumstances must the authorities resort to vindictive measures like cut in

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- advertisements, cancellation of accreditation, cut in newsprint quota and other facilities;
- iv. Provocative and sensational headlines should be avoided by the Press;
- v. Headings must reflect and justify the matter primed under them;
- vi. Figures of casualties given in headlines should preferably be on the lower side in case or doubt about their exactness and where the numbers reported by various sources differ widely;
- vii. Headings containing allegations made in statements should either identify the person/body making the allegation or, at least, should carry quotation marks;
- viii. News reports should be devoid of comments and value judgement;
- ix. Presentation of news should not be motivated or guided by partisan feelings, nor should it appear to be so;
- x. Language employed in writing the news should be temperate and such as may foster feelings of amity among communities and groups;
- xi. Corrections should be promptly published with due prominence and regrets expressed in serious cases; and

- xii. It will help a great deal if in-service training is given to journalists for inculcation of all these principles.

Guidelines Issued by the Press Council on January 21-22, 1993 in the Wake of the Ram Janambhoomi - Babri Masjid Dispute

Guidelines for guarding against the commission of the following journalistic improprieties and unethicities.:

- i. Distortion or exaggeration of facts or incidents in relation to communal matters or giving currency to unverified rumours, suspicions or inferences as if they were facts and base their comment, on them.
- ii. Employment of intemperate or unrestrained language in the presentation of news or views, even as a piece of literary flourish or for the purpose of rhetoric or emphasis.
- iii. Encouraging or condoning violence even in the face of provocation as a means of obtaining redress of grievance whether the same be genuine or not.
- iv. While it is the legitimate function of the Press to draw attention to the genuine and legitimate grievances of any community with a view to having the same redressed by all peaceful, legal and legitimate means, it is improper and a breach of journalistic ethics to invent

grievances, or to exaggerate real grievances, as these tend to promote communal ill-feeling and accentuate discord.

- v. Scurrilous and untrue attacks on communities, or individuals, particularly when this is accompanied by charges attributing misconduct to them as due to their being members of a particular community or caste.
- vi. Falsely giving a communal colour to incidents which might occur in which members of different communities happen to be involved.
- vii. Emphasising matters that are apt to produce communal hatred or ill-will, or fostering feelings of distrust between communities.
- viii. Publishing alarming news which are in substance untrue or make provocative comments on such news or even otherwise calculated to embitter relations between different communities or regional or linguistic groups.
- ix. Exaggerating actual happenings to achieve sensationalism and publication of news which adversely affect communal harmony with banner headlines or distinctive types.
- x. Making disrespectful, derogatory or insulting remarks on or reference to the different religions or faiths of their founders.

**b) Coverage of Handouts of Militants/Terrorists
- Guiding Principles - 1991-1992**

Arising out of a complaint against publication of some ULFA handouts/threat notes by a newspaper of Assam, the Press Council has enunciated some general principles for the guidance of the press. These are in tune with the recommendations of the Press Council of India Report on Punjab and Jammu & Kashmir, adopted by the Press Council in January, 1991.

These guiding principles considered by the Council in September 1992, are as follows:

Dictates or "Press Notes" commanding newspapers to publish them, under duress or threats of dire consequence, emanating from elements wedded to violence, constitute "the gravest assault on the freedom of the Press which is one of the surest guarantors of a democratic and plural society". Generally, such dictates or notes are not newsworthy *per se*. Their publication tends to demoralise the public and to affect adversely public, police and security. The publication not only compromises the freedom and independence of the newspaper concerned, but also constitutes an offence against the standards of journalistic ethics and professional responsibility.

This is not to say that if there is anything newsworthy in a "Press Note" emanating from any source, it should be blacked-out altogether, because 'self-censorship' may be "no less dangerous for being insidious". The essential point is that editors must exercise due caution and circumspection in considering the dissemination of such Press Notes. If the whole

of the Note is not pernicious, then it may be edited, its objectionable portions removed and language toned down so that whatever is true, newsworthy gets disseminated in a balanced manner. However, where the "news" and the objectionable portions are inextricably mixed up, violating the entire warp and woof of the "Press Note", it will be prudent to withhold its publication altogether.

This is not an easy way out, as the media's experience of militancy in Punjab has amply demonstrated. More than 50 media personnel have lost their lives in terrorist attacks and ignoring a militant press note can lead and has often led to death of innocent and defenceless media persons. Any show of editorial defence and courage is likely to be seen by defenceless employees of newspapers as exposing them to avoidable dangers. Editors and proprietors under these circumstances have little room for manoeuvres.

A workable expedient that proved useful in Punjab is for the government to be in close touch with newspapers so that objectionable and anti-national press notes from groups swearing by violence could be removed from newspapers before publication. Even though this may be seen as a form of pre-censorship, this arrangement saved lives and spared newspapers from difficult and delicate choices.

There is however a danger of a wilful administration using this process to muzzle the press and misuse its authority under the law to define "objectionable material" on its own terms. Strict procedures must therefore be laid down. Orders passed under any legislation in this regard from time to time in relation to publication of allegedly "objectionable matter"

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should be subjected to some kind of appellate review so as to curb any propensity to arbitrary action. The principal legislation and rules made thereunder should also be periodically reviewed in the light of changing circumstances. These safeguards should be built into all such press legislation.

c) HIV/AIDS and the Media

The Press Council of India under the mandate of Section 13(2)(b) of the Press Council Act, 1978, has built up a set of guidelines to facilitate the functioning of the Media. Of these, the guidelines on coverage of HIV/AIDS related matter was drawn up in the year 1993.

A writ petition no. CMP 52/2008 was filed by National Network of Positive People before Hon'ble Court of Juvenile, Thiruvananthapuram objecting to an incident relating to visual screened by the media of two children Bensy and Benson and the subsequent false reporting of the demise of Bensy, a child with HIV/AIDS. The Hon'ble Court observed that the Press Council of India should give appropriate direction to the Media while reporting HIV/AIDS by them. In pursuance, of this matter the Council approached the representatives of UNAIDS and activists in the field to update the guidelines on HIV/AIDS reporting as the matter has undergone sea change since 1993. The core group held two workshops on September 18, 2008 and October 10, 2008 to discuss and debate on the guidelines formulated and proposed that these guidelines should be translated into as many languages as possible for the benefit of the journalists at various levels. These guidelines are equally relevant to print as well as electronic media.

Be Objective, Factual and Sensitive

Journalists must ensure their story is objective, factual and sensitive, more so when they are reporting on HIV and AIDS. They should seek truth and report it in a balanced manner. Journalists should hold all decision makers accountable, from government to the pharmaceutical industry and advocacy groups. They should be engaged with, but not captive to, any interest group.

This means highlighting positive stories where appropriate, without underplaying the fact that HIV and AIDS is a serious issue. Omitting key information because it doesn't fit into the story is a breach of faith. The story must give both sides of the picture. Telling the whole story also means giving it a human face. The voices of people with HIV and AIDS must be heard more strongly and they must include the vulnerable and marginalised people.

The focus should be on facts. Distortion of facts in any manner to make the story salacious and therefore 'more saleable' is unacceptable. Censorship of relevant information too, is unethical.

Accuracy is critical since important personal and policy decisions may be influenced by media reports. In the context of HIV and AIDS, this means that journalists need to be very careful about the scientific and medical details as well as statistics. With the combination of drugs and treatment regimens available known as antiretroviral therapy (ART), people infected with HIV can live for many years before showing any signs of illness. ART is a combination of drugs that reduces the amount of HIV in the body (viral load) by

interfering with its replication. ART does not completely destroy the virus or cure the disease. With reduced virus in the body, the immune system can become stronger and fight infection more effectively, resulting in decreased morbidity for the patient. ART has been shown to benefit both adults and children living with HIV and AIDS.

Reporting on HIV and AIDS is complex and sorting through the epidemiological data can be challenging. Whether using data to support a story or reporting on the data itself, the specific data chosen and how they are used, will play a large role in determining what kind of story is told. In addition, the data is often so complex that there is a risk of misinterpretation. For example, some reporters may use 'incidence' and 'prevalence' interchangeably even though they represent two different ways of measuring the epidemic. Experts/epidemiologists should be consulted.

Ensure Accurate Language and Terminology

When reporting on HIV and AIDS, language is extremely important. Journalists should be particularly careful to get scientific and statistical information right. They must integrate this with correct terminology. For instance, it is essential to know and make clear the difference between HIV and AIDS. Being a syndrome or a collection of symptoms, AIDS cannot itself be transmitted, nor is there an AIDS virus, nor an AIDS carrier. Similarly, a person either does or does not have AIDS. Since there are no degrees of AIDS, the expression 'full-blown AIDS' is meaningless.

With effective treatments now available, HIV infection does not necessarily lead to AIDS. It is important to reflect

this in reportage. Since HIV is not synonymous with AIDS, 'HIV/AIDS' as a term is no longer considered accurate.

With AIDS not being a singular disease but a syndrome defined by a variety of diseases and cancers, a person does not 'die of AIDS'. It would instead be accurate to report that he or she died of an HIV-related illness.

Terminology used must be appropriate and non-stigmatising. The media must cross check changes in terminology and language. Terms like 'scourge' to describe the infection have been discarded. Other terms like AIDS carrier, prostitute, drug addict, AIDS patient/victim/sufferer also lead to stigma and should not be used.

Debunk Myths Related to Prevention of HIV and Miracle Cures

The press should take care not to promote myths related to prevention and transmission of HIV or to claims that advertise protection from the infection. Nor should it give any credence to traditional cures that have no scientific verification. False hopes are raised by reporting claims around cures. Researchers have been working hard for decades yet there is no known cure for HIV or AIDS although the infection is treatable with a positive impact on the quality of life. The media should include telephone numbers of HIV and AIDS helplines/counselling services.

Advertisements related to HIV, STIs, skin diseases, tuberculosis and other opportunistic infections can be potentially misleading and should be carefully checked.

Make Photographs, Illustrations and Cartoons Positive

Visuals have an immediate impact on audiences and are important to highlight stories. But the use of photographs in HIV and AIDS stories raise a lot of ethical issues. Care should be taken to ensure that photographs do not breach the confidentiality or privacy of infected people and their families.

Avoid photos that promote stereotypes related to HIV and AIDS and those that victimize the infected. Care should be taken to ensure that captions to photographs are factually correct and do not increase stigma.

Illustrations and cartoons also should avoid any negative implications.

For Visual Media

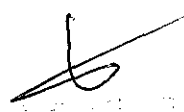
The visual media must deal sensitively and ethically with the identities of those who have HIV and AIDS as well as their families and associates. Care must be taken during interviews, off-the-record conversations, while taking photographs and recording their stories so that identity is kept confidential.

Some Pointers:

- ☞ Keep the camera away from focusing directly on the face of person/case study. Instead, shoot hands, feet or back of the head ;
- ☞ Shoot in silhouette, keeping the camera behind the subject;

- ☞ Since voice can also be an identifying factor, ask questions softly so that the replies are soft. In most cases, superimposition of subtitles should be used so that the audio does not need to be upped too much;
- ☞ Do not show pictures of the family. These too can lead to identification of the person;
- ☞ Try to keep the location of the shoot ambiguous. For instance, avoid naming the village;
- ☞ Establish the concerned person's journey through a third party's voice whenever possible;
- ☞ An interview should be a one-to-one chat that allows the person to speak. Ensure questions are not deeply personal or accusatory. It should not put the person on the defensive;
- ☞ Hidden cameras should never be used;
- ☞ Try to show people living with HIV in a positive light by portraying them as individuals instead of 'victims';
- ☞ Wherever possible, obtain written consent;

Even with permission, it may be best not to disclose the infected person's identity. The repercussions and pressures of being revealed on TV particularly can be terrible, especially for the family. The stigma gets heightened. In many cases permission to shoot openly is given without understanding the power of the visual media.


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The person may feel safe appearing on TV in Delhi, away from their community, not realizing the possibility that their family is watching the story in a village/town far away.

For news Desk including Sub-editors and Newsroom Staff

Special attention must be paid by the news desk and newsroom staff to ensure that the eye-catching headlines reflect the issue accurately and that the story is balanced and free of damaging stereotypes.

Uphold Confidentiality and Obtain Informed Consent

Journalists should not disclose the identity of the person infected with HIV unless they have specific permission to do so. Whenever possible, they should get written consent.

If written consent is not possible, informed consent must be obtained. This means ensuring that people living with HIV and AIDS (PLHIVs) are aware of the implications of their identification.

The moral and professional responsibility of the story should be that of the journalist. Therefore, the journalist must exercise caution and use his/her judgment on how PLHIVs are to be portrayed. To minimize damaging repercussions, it would be best to avoid identification even when written consent is obtained. This can be done by changing names and locations in the story.

Avoid Discrimination

Journalists should avoid references to caste, gender or sexual orientation when reporting HIV and AIDS. Such references

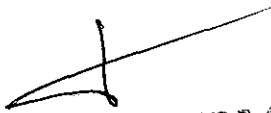
entrench existing prejudices against sexual minorities, certain communities or groups already targetted, Journalists should avoid references to caste, gender or sexual orientation when reporting HIV and AIDS. Such references entrench existing prejudices against sexual minorities, certain communities or groups already targetted, be the men who have sex with men (MSM), injecting drug users (IDUs), sex workers or migrants.

Sexual minorities includes people who are lesbian, gay, bisexual and transgender (LGBT) and covers men, women and all those who do not identify either as men or women (that is, transgender). Among the transgender are hijras. Hijras are essentially biological born males who do not identify as men and prefer to identify as women.

It is important to understand that MSMs may never identify as homosexual. Therefore, the word MSM is used to denote behaviour only. So it is appropriate to say Oscar Wilde was a gay man and not Oscar was gay.

Sexual minorities are sometimes derisively referred to by terms which reinforce stereotypes about the community. Instead, it would be more appropriate to use terms like sexual minorities, gay man or lesbian. It is not necessary to call them that either as long as one does not stigmatise them.

While information about modes of transmission are important, instead of making value judgements the reports should try to focus on how the infection affects people, their work, their families and the gaps in policy and implementation of HIV programmes. Focusing needlessly on how a person was infected reinforces an attitude that seeks to blame those with HIV or AIDS for being infected.


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Care should be taken to ensure that a particular region's language, cultural norms and traditional practices are understood and accurately reported.

Ensure Gender Sensitive Reporting

The media must guard against gender stereotyping. It must not stigmatize HIV positive women. For instance, portraying sex workers and bar girls as being responsible for spreading the infection is common. Instead, stories should explore how the infection makes women particularly vulnerable to different forms of exploitation. Stories must focus on how it is possible to live a productive and reasonably normal life with HIV, about the inherent strength that enables women to shoulder challenges and about the ethical and legal rights of sex workers.

Stories should also focus on the new technology and medication available for prevention of infection from mother to child and the fact that infected women can have children who may be free of the infection.

An example of gender sensitive reportage is the use of PPTCT (**Prevention of Parent to Child Transmission**) instead of PMTCT (**Prevention of Mother to Child Transmission**). This way the report does not hold the mother solely responsible for passing the infection.

Ensure Sensitivity on Child-Related Stories

The identity of children infected and affected by HIV should not be revealed. Nor should their photographs be

shown. This includes orphans and children living in orphanages, juvenile homes etc.

International and national laws specifically prohibit publication of any information or photograph that may lead to the identification of these children and violate their rights.

In India, the Juvenile Justice (Care and Protection of Children) Act, 2000 lays down that no report in any newspaper, magazine or visual media regarding a juvenile in need of care and protection shall disclose the name, address, school or any other particulars that lead to their identification. It also prohibits the publication of any photograph related to the child.

Journalists must also be sensitive to the fact that a child may or may not be aware of her/his HIV status. This fact must be ascertained before the journalist gets into the process of enquiry. This is of prime importance as some questions can be perceived as intrusive or insensitive and can leave a lasting impression on the child.

Keeping that in mind, it is nevertheless important for children to participate in matters that concern them. However, their identities must be protected while sharing their views/stories.

The fact that paediatric doses of ART medication are now available must be widely disseminated.

Ensure Balanced and Responsible Coverage

News organisations should take the initiative to lessen the impact of a 'negative' story such as suicide due to HIV-related illness by carrying statements from positive people

who have faced the challenge successfully or by giving helpline numbers.

Care should be taken that stories on infected individuals are not sensationalized. The stories should avoid falling into the trap of projecting infected persons as either 'victims' or 'culprits'.

When reporting on specific professional groups such as uniformed services, health professionals etc, care should be taken to obtain data from authorised sources. Inaccurate reports will have an adverse impact on their morale and will also increase stigma. Such reports will also create an impression of lack of confidentiality that will hinder voluntary testing.

Ensure Regular Training on HIV and AIDS for Media

Journalists must keep abreast of the changing realities of this fast-evolving infection. News organizations across the country must actively encourage training workshops and modules on the issue. Journalists should also keep themselves updated on court judgements related to the issue.

HIV is no longer just a health issue. Instead of concentrating on health reporters alone, people at all levels of the news organization should be trained and sensitised on the various dimensions, especially terminology of HIV and AIDS. The infection impacts on the country's development, economics, business and politics. Surveys have shown that with training and sensitization, media reportage on HIV and AIDS, particularly in high-prevalence states, has been relatively more balanced and accurate.

**Adopt Existing Stylebook or Guidelines on HIV and
AIDS Reportage**

News organisations should adopt and widely disseminate existing standardised guidelines and terminology on reporting on HIV and AIDS. This will encourage responsible coverage of the issue.

APPENDIX 1

UNAIDS TERMINOLOGY GUIDELINES

www.unaids.org

APPENDIX 2

**CODE FOR SELF-REGULATION IN ADVERTISING BY
THE ADVERTISEMENT STANDARDS COUNCIL OF
INDIA (ASCI)**

www.asci.co.in

APPENDIX 3

**HIV/AIDS AND THE LAW – A JUDICIAL
COLLOQUIUM BY HUMAN RIGHTS LAW NETWORK
(HRLN)**

www.hrln.org

CONSENT FORM

I, _____ Son/ Daughter of _____, am a responsible adult / Parent/ legal guardian of _____

Aged _____ years, agree that you _____

(name of interviewer/photographer) and your photographer/ cameraman have my permission to record my statement/interview and take my photograph for print/audio visual media, on HIV and AIDS related issues.

I understand that my statement/interview will not be distorted or misused in any way wherever it is used. The photographer will also ensure that photographs do not breach my confidentiality or that of my family.

You will also ensure that statement/interview taken of _____ (name of interviewee), who is a minor, does not reveal his/her identity in any way.

It has also been explained to me in my language (_____) that there could be a potential fallout of my statement that could include stigma and discrimination directed towards me, my family members, relatives and friends.

ADDRESS: _____

Phone: _____

DATE: _____

SIGNATURE: _____


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d) Financial Journalism – 1996

The Press Council of India has counselled reporters/ financial journalists/newspaper establishments to refrain from receiving any gifts/grants/concessions/facilities, etc., either in cash or kind which are likely to compromise free and unbiased reporting on financial matters.

1. The Council in its Report has observed that the financial journalists today enjoy considerable influence over readers' minds and, therefore, they owe it to them to present a balanced and objective view of the financial dealings, status and prospects of a company. It observed that some companies are given excessive news coverage in the newspapers/magazines because they have issued advertisements to that print media. Sometimes, adverse reports are published of those companies which do not give advertisements to the newspapers or magazines. Again, when a media is not happy with any company/management for whatever reason, the negative aspects of the company are highlighted, while in the reverse situation, no negative aspects are brought to light. Some companies are also known to give gifts, loans, discounts, preferential shares, etc., to certain financial journalists to receive favourable and positive reports of the companies. At the same time, there is no mechanism for investors' education or for raising public opinion against such unhealthy practices.
2. The Council feeling concerned over the malpractice in the Corporate Sector and after holding detailed

deliberations and discussions with the representatives of financial institutions and journalists, has recommended the guidelines enumerated below for observance by the financial journalists.

- 3) The financial journalists should not accept gifts, loans, trips, discounts, preferential shares or other considerations which compromise or are likely to compromise his position.
- 4) It should be mentioned prominently in the report about any company that the report is based on information given by the company or the financial sponsors of the company.
- 5) When the trips are sponsored for visiting establishments of a company, the author of the report who has availed of the trip must state invariably that the visit was sponsored by the company concerned and that it had also extended the hospitality as the case may be.
- 6) No matter related to the company should be published without verifying the facts from the company and the source of such report should also be disclosed.
- 7) A reporter who exposes a scam or brings out a report for promotion of a good project should be encouraged and awarded.
- 8) A journalist who has financial interests such as share holdings, stock holdings, etc., in a company, should not report on that company.

- 9) The journalist should not use for his own benefit or for the benefit of his relations and friends, information received by him in advance for publication.
- 10) No newspaper owner, editor or anybody connected with a newspaper should use his relations with the newspaper to promote his other business interests.
- 11) Whenever there is an indictment of a particular advertising agency or advertiser by the Advertising Council of India, the newspaper in which the advertisement was published must publish the news of indictment prominently.

e) Election Reporting-1996

- i) General Election is a very important feature of our democracy and it is imperative that the media transmits to the electorate fair and objective reports of the election campaign by the contesting parties. Freedom of the Press depends to a large measure on the Press itself behaving with a sense of responsibility. It is, therefore, necessary to ensure that the media adheres to this principle of fair and objective reporting of the election campaign.

The Press Council has, therefore, formulated the following guidelines to the media for observance during elections:

1. It will be the duty of the Press to give objective reports about elections and the candidates. The newspapers are not expected to indulge in

unhealthy election campaigns, exaggerated reports about any candidate/party or incident during the elections. In practice, two or three closely contesting candidates attract all the media attention. While reporting on the actual campaign, a newspaper may not leave out any important point raised by a candidate and make an attack on his or her opponent.

2. Election campaign along communal or caste lines is banned under the election rules. Hence, the Press should eschew reports which tend to promote feelings of enmity or hatred between people on the ground of religion, race, caste, community or language.
3. The Press should refrain from publishing false or critical statements in regard to the personal character and conduct of any candidate or in relation to the candidature or withdrawal of any candidate or his candidature, to prejudice the prospects of that candidate in the elections. The Press shall not publish unverified allegations against any candidate/party.
4. The Press shall not accept any kind of inducement, financial or otherwise, to project a candidate/party. It shall not accept hospitality or other facilities offered to them by or on behalf of any candidate/party.
5. The Press is not expected to indulge in canvassing of a particular candidate/party. If it

does, it shall allow the right of reply to the other candidate/party.

6. The Press shall not accept/publish any advertisement at the cost of public exchequer regarding achievements of a party/ government in power.
7. The Press shall observe all the directions/orders/instructions of the Election Commission/ Returning Officers or Chief Electoral Officer issued from time to time.

ii) Guidelines on 'Pre-poll' and 'Exit-polls' Survey-1996

The Press Council of India having considered the question of desirability or otherwise of publication of findings of pre-poll surveys and the purpose served by them is of the view that the newspapers should not allow their forum to be used for distortions and manipulations of the elections and should not allow themselves to be exploited by the interested parties.

The Press Council, therefore, advises that in view of the crucial position occupied by the electoral process in a representative democracy like ours, the newspapers should be on guard against their precious forum being used for distortions and manipulations of the elections. This has become necessary to emphasize today since the print media is sought to be increasingly exploited by the interested individuals and groups to misguide and mislead the unwary voters by subtle and not so subtle propaganda on casteist,

religious and ethnic basis as well as by the use of sophisticated means like the alleged pre-poll surveys. While the communal and seditious propaganda is not difficult to detect in many cases, the interested use of the pre-poll survey, sometimes deliberately planted, is not so easy to uncover. The Press Council, therefore, suggests that whenever the newspapers publish pre-poll surveys, they should take care to preface them conspicuously by indicating the institutions which have carried such surveys, the individuals and organisations which have commissioned the surveys, the size and nature of sample selected, the method of selection of the sample for the findings and the possible margin of error in the findings.

1. Further in the event of staggered poll dates, the media is seen to carry exit-poll surveys of the polls already held. This is likely to influence the voters where the polling is yet to commence. With a view to ensure that the electoral process is kept pure and the voters' minds are not influenced by any external factors, it is necessary that the media does not publish the exit-poll surveys till the last poll is held.
2. The Press Council, therefore, requests the Press to abide by the following guideline in respect of the exit polls:

Guideline:

No newspaper shall publish exit-poll surveys, however, genuine they may be, till the last of the polls is over.

f) Guidelines on Undue Favours to Journalists-1988

The power of the press has prompted the public men through the ages to try to cultivate and curry its favours through overt, and more often than not, covert means.

It is only if the press accepts its responsibility of serving the public interest as an independent observer, informer and educator of people as a watchdog of the interest of the society that it can discharge its true role as a mass communicator. Ultimately the strength of the moral fabric of the press itself shall decide whether or not to be swayed by the inducements and enticements thrown in its way by those in power. The media persons must realise that the burden of whether favours and facilities they receive, whether they are showered on them by the public or the private organisations or the individuals in authority, is ultimate borne by the people. The private organisations recover their costs by adding to the cost of the products and services they sell. The ultimate by allegiance of the press has therefore to be of the people and not to immediate benefactors.

To distinguish between the facilities made available to the members of the fourth estate for due discharge of their professional duties and favours granted with a view to influence them, is not always easy. However, the simple and intelligible demarcation may be a uniform profferment of help to journalists in discharge of their professional duties made within the parameters of well laid down policies, without discrimination from person to person constitutes facility but when it is restricted to any or some individuals or establishments, it becomes a favour.

Based on the report given out by the Council in January 1998 in favour extended to journalists by various authorities over the period 1985 to 1995, the Council has framed the following guidelines for future guidance:

1. Accommodation-houses/flats/land:

The Government is not obliged to provide accommodation to the journalists as it is the responsibility of the newspaper establishment to provide accommodation to their employees. Whenever such a facility is provided to the journalists by the authorities it should be gradually phased out.

Land allotments at concessional rates to the newspaper establishment /individuals for the purpose of installing printing presses should not be a source of undue/illegal enrichment of the allottees.

Therefore, the proposal of allotment of land to newspaper establishment/individuals should be scrutinized by the authorities very carefully. No land should be allotted to newspaper establishments/individuals at concessional rates if the land is proposed to be put to commercial use as well along with its use for press purpose by the allottees.

2. Allotment of Shares in Companies:

The shares allotted at a special price or given under any quota is a favour.

3. Bus Travel/Rail Travel/Transport:

This is a favour so far as big and medium newspapers are concerned. Further the journalists attached to the

newspapers which are in profit have no justification for availing free bus/rail/transport facility. Such costs must be borne by the concerned newspaper. However, in the case of small newspaper this may constitute a facility.

4. Foreign Travel:

Extending the facility of air travel by companies, corporations and airlines is an inducement to write favourably about their products and services. As regards official foreign tours undertaken by the President, the Vice President, the Prime Minister and the External Affairs Minister or any other Minister, only eligible journalist should be nominated for coverage once the newspaper has been selected on the basis of the criteria laid down. The management personnel of the newspapers should not be selected/ nominated for coverage of such tours.

5. Free Air Tickets by Domestic Travel Airlines and Others:

It induces journalists to write favourable reports to commercially promote the airlines and the commercial enterprise offering such tickets and should not be accepted by the journalists.

6. Cash Disbursement from Chief Minister's Discretionary Fund:

Disbursement of money from the Discretionary Fund of the Chief Minister other than by way of relief to the indignant and helpless journalists encourages unfaithfulness

to the mission of journalism and promotes corrupt practices. This could be discouraged by the Chief Ministers.

7. Cash Disbursement Financial Assistance:

The financial assistance, even if given for medical treatment, constitute a favour, unless, medical aid is given under a clear cut policy uniformly applicable to the destitutes or sick persons who cannot afford the medical treatment, and the journalists happens to be one of such beneficiaries. Extending CGHS facility to journalists is illogical since this facility to its employees is the responsibility of the newspaper establishments and should be provided by the authorities.

8-9. Funds for media centres and grants to journalists associations is favour and should be discontinued, unless it is given for promoting the journalistic skills.

10. Gift cheques including those given by the advertisement agencies for publication of material relating to their clients or otherwise is a favour and deserve outright condemnation. The journalists should not accept them.

11. Gifts in any form, irrespective of their value, are to be condemned.

12. Free parking is a favour, if journalist uses this facility for the purpose other than his professional work.

13. Guest Hospitality:

The working journalists, as a rule should not be treated as State Guests. However, when Press teams are invited to a

place to discharge their professional duties, making due arrangements for them would be an exception. The stay in government guest houses by accredited journalists, is permissible if it is for discharging professional duties.

14. Import of duty free cameras and computers:

It is the duty of the newspaper establishment to provide cameras/computers to its personnel. Allowing duty free cameras and computers to a particular class of persons by the Government is a favour. However, this facility may be extended to the accredited freelance journalists, small newspapers, provided it is not misused.

15. Insurance Premium:

It is not for the government to pay premium of the insurance of the journalists. The newspaper establishments or the individual concerned should make the payment of the same.

16. Giving jobs to journalist's relatives, for considerations, and other than on merits is an outright attempt to induce and should be curbed.

17. The grant of loans within the ambit of a policy already laid down for all citizens is permissible. But when the loan is given only to journalists or at reduced rates of interests or when the interest due or the principal amount is waived/written off/condoned, such a practice amounts to undue favour and should be stopped.

18. Nomination on Committees:

In some states the journalists are nominated on some organisations and institutions like Public Service Commission and are also given the status of State Minister or Cabinet Minister, which is a wrong practice. Except for nomination by professional organisations on Committees, which have a quota to represent the various professions, this practice constitutes a favour and should be stopped.

19. Allotting PCO/Fax/Phone booth or centre to a journalist is a favour. This practice should be stopped.

20. Pensionary Benefits:

Since the media is not part of the government, the benefit given only to media persons constitutes a favour when extended by the government.

21. Press Clubs-Donation of Funds:

This practice is prevalent all over the country and funds are being donated lavishly by Chief Ministers/Ministers, political leaders, companies and corporations not only to genuine Press Clubs but also to the Press Clubs of dubious nature. In the latter case it constitutes an attempt to induce the journalists to give favourable reports about the donors. This should be stopped.

22. Prizes:

The practice of giving spurious awards has to be curbed. There are instances of sale of awards and prizes by

the racketeers making money out of it. Not only the racketeers but the awardees often contribute towards the value of the prize.

23. Allotment of shops to persons for reasons of their position as journalist is a clear cut favour and should be stopped forthwith.
24. The grant of Accreditation Cards, Government and Public Authority Advertisements according to rules, facility during election meeting, expenses for journalistic conventions, seminars, etc. providing press rooms, inviting press parties, giving publication material, providing for training of journalists do not constitute favours. They are essential facilities offered to journalists for the discharge of their professional duties.

g) Right to Privacy - Public Figures and the Press -1998

The issue has been under heated debate at both national and international level. It appears certain that right to privacy cannot be absolute, yet the media itself has to show self-restraint, and respect the privacy of the public figures. Where there is clash between the public person's privacy and public's right to know about his personal conduct, activities, habits and traits of character, impinging upon or having a bearing on public interest, the former must yield to the latter.

It will, however, be necessary to bear that what is of 'interest to the public' is not synonymous with 'public interest'

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and that must be the ultimate test that the journalists must themselves apply in the circumstances of each individual case.

Drawing out of the above, the Council draws up the following guidelines:

“Right to privacy is an inviolable human right. However, the degree of privacy differs from person to person and from situation to situation. The public persons who function under public gaze as an emissary/representative of the public cannot expect to be afforded the same degree of privacy as a private person. His acts and conduct as are of public interest (‘public interest’ being distinct and separate from ‘of interest to the public’) even if conducted in private may be brought to public knowledge through the medium of the press. The press has, however, a corresponding duty to ensure that the information about such acts and conduct of public interest of the public person is obtained through fair means, is properly verified and then reported accurately. For obtaining the information in respect of acts done or conducted away from public gaze, the press is not expected to use surveillance devices. For obtaining information about private talks and discussions, while the press is expected not to badger the public persons, the public persons are also expected to bring more openness in their functioning and co-operate with the press in its duty of informing the public about the acts of their representatives.”

The above broad guidelines emulated in true spirit are certain to strike a balance between the right of the press to have access to information and the public persons’ right to privacy.

h) Model Guidelines for Publishing Overseas Advertisements in Accordance with Emigration Act, 1983

The Information and Broadcasting Ministry requested the Council to issue guideline for the publishers in wake of advertisements of overseas jobs being published in various newspapers in contravention of Emigration Act, 1983. The Council in consultation with the Protector General of Emigration adopted the following model guidelines:

1. As per the provisions of Section 16 of the Emigration Act, 1983, no employer can recruit any citizen of India for employment in any country or place outside India except (a) through a recruiting agent competent under the Act to make such recruitment, or (b) in accordance with a valid permit issued in this behalf.
2. Section 10 of the Emigration Act, 1983, provides that no recruiting agent shall commence or carry on the business of recruitment of Indian citizens for overseas employment except under and in accordance with the certificate issued by the registering authority, i.e., Protector General of Emigrants in the Ministry of Overseas Indian Affairs.
3. Similarly, a foreign employer or a project exporter can recruit Indian citizens for employment abroad only after obtaining permit from the Indian Mission in the country of employment or the Ministry of Overseas Indian Affairs, New Delhi.

4. It is mandatory for the Registered Recruiting Agents to display their registration certificate number while inserting advertisement for recruitment. Similarly, Foreign Employers and Project Exporters will also have to indicate permit number while inserting advertisements.
5. A copy of the registration certificate in case of recruiting agents and permit letter in case of foreign employers and project exporters may be asked to be attached with the advertisement form as proof of their being genuine persons.
6. All advertisers may be asked to mention the following in their advertisement:
 - a. Registration Certificate Number/Permit Number;
 - b. Full address with Telephone Number, Post Box Number, e-mail address (These could be given in addition to the full address but not as the mode of communication);
 - c. No fee towards processing application or for any other purpose shall be charged from the applicant;
 - d. Name of the Posts/Jobs;
 - e. Number of Position/vacancies in each category; and
 - f. The salary offered to each category of job.

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7. In case of any doubt, the publisher may also ask for Copies of Demand Letter and Power of Attorney supposed to have been given by the foreign employer or sponsor to an agent, on the basis of which the said advertisement is being released.
8. Also clarifications may be sought from the Protector General of Emigrants, Ministry of Overseas Indian Affairs, New Delhi or from the eight Offices of the Protector of Emigrants located at Delhi, Mumbai, Chennai, Kolkata, Thiruvananthapuram, Cochin, Chandigarh and Hyderabad.
9. Further, the list of registered recruiting agents can also be seen in the website of the Ministry of Overseas Indian affairs, i.e. <https://moia.gov.in>.

i) Guidelines for Protection of Child Rights

Guidelines Drawn up for Reporting on Children:

1. Do not further stigmatize any child; avoid categorisations or descriptions that expose a child to negative reprisals including additional physical or psychological harm, or to lifelong abuse, discrimination or rejection by their local communities.
2. Always provide an accurate context for the child's story or image.
3. Always describe the child as victim.
4. Obscure the visual identity of any child who is identified as:
 - i. A victim of sexual abuse or exploitation,

- ii. A perpetrator of physical or sexual abuse,
- iii. HIV positive, or living with AIDS, unless the child, a parent or a guardian gives fully informed consent,
- iv. Charged or convicted of a crime.

In certain circumstances of risk or potential risk of harm or retribution, change the name and obscure the visual identity of any child who is identified as:

- a. A current or former child combatant,
 - b. An asylum seeker, a refugee or an internal displaced person,
5. In certain cases, using a child's identity - their name and/or recognizable image - is in the child's best interests. However, when the child's identity is used, they must still be protected against harm and supported through any stigmatization or reprisals. Some examples of these special cases are:
- i. When a child initiates contact with the reporter wanting to exercise their right to freedom of expression and their right to have their opinion heard.
 - ii. When a child is part of a sustained programme of activism or social mobilization and wants to be so identified.

- iii. When a child is engaged in a psychosocial programme and claiming their name and identity is part of their healthy development.
6. Confirm the accuracy of what the child has to say, either with other children or an adult, preferably, with both.
7. When in doubt about whether a child is at risk, report on the general situation for children rather than on an individual child, no matter how newsworthy the story.

j) Model Accreditation/Advertisements Rules-2014

1. These Rules formulated by the Press Council of India will serve as the guideline for framing and implementing the Rules of Accreditation of the Central and State Governments. These Model Rules have been framed to ensure accreditation-to cover the news relating to the Central/State Government- is granted and renewed with fairness, transparency, with commitment to freedom of press, and in public interest.
2. **Definitions:**
 - i) **Accreditation:** Recognition granted to Correspondents/Editors of Media organisations (as defined in sub clause iv) to have access to news materials, written and pictorial; to offices and officers of the Government at the Headquarters and other centres for gathering news; access for laws, rules, notifications, press

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releases, background papers, etc. of the activities of the government; for invitations and admittance without any hindrance to functions, press conferences, statutory events and other activities of the government; facilities in terms of travel, research, documentation, etc. relating to newsgathering. The Accreditation should be available throughout the country, state, city, district or tehsil, as decided by the Committee.

- ii) **Correspondent:** A working journalist employed by a newspaper, magazine, news agency, television channel, radio organization or news portal, to gather and file news items regularly for the newspaper, magazine, television channel, radio organisation or news portal, as defined in clause 2 (iv) of these rules. The definition of Working Journalist for print media, including newspapers, magazines and news agencies, shall be generally the same as the definition in the Working Journalist Act.
- iii) **Cameramen:** Still and Television cameramen employed by media organisations for taking picture or video-graph news events.
- iv) **Editor:** Editor of a newspaper, magazine, Television Channel, Radio organization, news portal, who is in-charge of news selection and editorial policy of the organization, including Chief Editor, Editor-in-Chief, Managing Editor,


Executive Editor, Resident Editor, Content Head.

- v) **Media Organization:** Newspaper, magazine, Television Channels, Radio organization, news portal, recognised by Government of India/State government agencies under relevant laws and rules like PRB Act, Uplinking Guidelines for Television Channels and FM Stations, Prasar Bharti Act, etc.
- (a) **News Media** shall include newspapers, wire service and non wire service news agencies, news feature agencies, electronic media agencies, news portals containing news and comments on public news.
- (b) **Newspaper** shall have the same definition as given in the Press and Registration of Books Act, 1867. A Daily newspaper shall be published on not less than five days in a week; a weekly or Fortnightly newspaper shall have not less than 45 or 22 issues in a year respectively.
- (c) **News Agency** shall be wire and non wire organizations which supply news on a minute-to- minute or daily basis to a number of media organizations, both print and electronic.
- (d) **News Feature Agencies** shall be agencies which supply news and features based on

current affairs to newspaper organizations on a weekly or fortnightly basis.

- (e) **Radio Organization** means any media organization which broadcast news bulletins and carries current affairs programmes, including All India Radio which operates under the Prasar Bharti Act.
- (f) **Television Channel** shall have the same meaning as News and Current Affairs Channels permitted under the Guidelines of the Ministry of Information and Broadcasting. This includes the news channels of Doordarshan operating under the Prasar Bharti Act.
- (g) **Television and Radio news agency** shall be media organization which provides news clips and feeds to Television channels and radio stations.
- (h) **Foreign Newspapers and foreign news agencies** shall be media organisation which fulfil broadly the criteria laid out in clause 2 (b) and 2 (c) respectively.
- (i) **Foreign television channel** shall be media organisation which fulfils broadly the criteria laid out in the Guidelines for News and Current Affairs Channels of the Ministry of Information and Broadcasting.

- (j) **News Portals** are news and current websites which provide continuous news coverage and current affairs features.
- vi) **Accreditation Card:** The PIB or the State Information Department shall issue a photo identity card to all correspondents and editors to whom the accreditation is granted by the Committee, and wherever necessary, the card should have authorization to enter all premises of the Central and State Governments, without any requirement of obtaining visitor pass.
- vii) **Committee:** Committee formed by the Government for considering and sanctioning of Accreditation, and to recommend steps for facilities for news gathering by accredited correspondents and news organisations. State Governments shall form District or Tehsil (Mandal) level Accreditation Committees, subject to local requirements.
3. The Press Accreditation Committee shall be a permanent organisation, whose membership will change every two years. There shall be no discontinuity in the functioning of the Committee and it shall be the responsibility of the Government to ensure that the nomination of fresh members is gazetted before the term of the earlier team expires. In case the Government is unable to nominate the new members, the old Committee will continue until the new Committee is constituted.


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4. a) The Press Accreditation Committee shall consist of not less than Nine members, representing various recognised mainstream media organisations at National/State level of Editors, Correspondents, Cameramen and Cartoonists. These organizations must have representative character and fair representation of membership of the category of journalists in the Centre or State.
 - b) Every Accreditation Committee formed by the Central or State government shall have a representative of the Press Council of India, preferably a member who lives in the particular State or the City as the case may be.
 - c) No member may continue for more than two consecutive terms.
5. The Director General, Media & Communication shall be the Member-Secretary of the Central Press Accreditation Committee and the Director/Commissioner of Information of a State Government shall be the Member-Secretary of the State level Accreditation Committee. For a Committee at District or Mandal level, the District Information/Public Relations Officer shall be Member-Secretary. The Member-Secretary shall be responsible for convening the meetings of the Committee, scheduling the agenda and for implementing the decisions of the Committee.
 6. The Chairman of the Committee shall be a senior journalist, who shall be nominated by the Central or

State Government. The Chairman should have minimum 10 years experience as an accredited correspondent to the government concerned, and should be ineligible for a second continuous term.

7. The Committee shall meet once in a quarter or more frequently if considered necessary. The quorum shall be 50 percent of the total membership. A minimum of 15 days notice should be given for meetings, unless the Chairman is satisfied that a meeting should be called at short notice due to extraordinary circumstances. Even then the decisions of such an extra ordinary meeting will have temporary validity, until they are ratified by the Committee meeting called after 15 days notice.
8. The Committee shall admit newspapers, news agencies, magazines, TV channels, Radio organizations, news portals provided, they fulfill the basic criterion of providing contemporaneous news to their readers, subscribers, viewers, listeners as the case may be. They should carry at least 50 per cent its contents as news/comments of general public interest. The decision of the Committee on whether the applicants carry 50 percent of content as news is final. These organisations must be functioning as a news organisation for a period of at least six months before they are eligible for accreditation as an organisation. However, if a publication changes the periodicity of publication but continues to carry minimum 50 percent of contents as news/comments of general public interest, then its admission shall continue. All

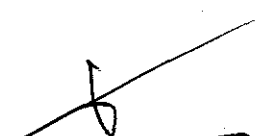
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newspapers and magazines applying for recognition by the Committee shall furnish a No Due Certificate from the Press Council of India.

9. However, if the Committee is unanimously satisfied that a news organisation needs temporary accreditation from the day it starts the operations, then the Committee may grant a small number of accreditations to the applicant organisation, without creating any permanent claim. The admission granted to these organisations will be withdrawn if they cease to function or cease to disseminate contemporaneous news. It is the duty of the organisation to inform the Government if it is being closed down or changes to non-news content.
10. Based on the Circulation of newspapers and magazines, the number of subscribers and turnover of news agencies, the turnover of TV channels and Radio organisations, the page hits and turnover of news portals, the Committee shall prescribe the number of Editors, Correspondents, Photographers, Cartoonists, Cartographers, TV Cameramen, Radio Executives, etc. who can be accredited to the Government. However if the organisation provides proof of increase/decrease of these criteria, the Committee would correspondingly alter the quota.
11. A minimum of five years experience in a news organisation, which is admitted by the Committee, is required to consider the application of an Editor/ Correspondent / Cartoonist / Cartographer or

Photographer/TV Cameraman/Radio Executive for accreditation to the Government of India. For accreditation to the State Government at the State or District level, three years experience is minimum requirement.

12. For purpose of accreditation, Editors should be considered as being engaged in newsgathering and should be given accreditation. The Committee shall satisfy itself that the applicant is fully employed in the news organisation by asking for news clippings, video clips, radio clips, etc., apart from employment certificate, a certificate from the Editor that the applicant is engaged in news reporting. The Committee shall not give accreditation to advertising or sales person who put in a claim that they are also correspondents.
13. On its satisfaction that the applicant meets the criterion to be an accredited correspondent, the Committee shall permit grant of accreditation subject to the availability of the quota of the news organisation.
14. The Government will issue the accreditation card to the journalist within a fortnight of the date of approval by the Committee.
15. In case the Committee rejects the application of a media organisation, or a journalist on behalf of a media organisation for accreditation, then the applicant organisation/individual shall be informed the reasons for rejection in writing. The applicant organisation/individual can make amends or place other relevant


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facts before the Committee for reconsideration. However, the Committee's decision, after such reconsideration, shall be final.

16. The Committee can grant accreditation to senior journalists, who are freelancing, provided they have been accredited correspondents on behalf of news organisations for at least 15 years, provided they show evidence that their main avocation is of journalism and that they are earning their livelihood through journalism.
17. The Committee may grant special accreditation to journalists who have done Long and Distinguished Service as accredited correspondents, provided they are above 58 years of age; are accredited for a minimum period of 15 years; and are actively pursuing journalism at the time of recognition of their service.
18. The Accreditation card issued to Editors, Correspondents, Cartoonists, Cartographers, Photographers, TV Cameramen, Radio Executives, etc. shall be valid for a period of two years. Under the general directions of the Committee, the PIB or the concerned State Government department shall renew the accreditation of all accredited journalists once in two years, ensuring that the accredited journalist is not deprived of the facility even for a single day.
19. In case a correspondent works for more than one organisation, and requests for additional accreditation,

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the Committee may decide to grant additional accreditation, after recording the reasons for granting additional accreditation.

20. All Government Ministries, Departments, undertakings and other wings shall provide access and information to accredited journalists, and they shall not discriminate amongst accredited journalists for dissemination of news.
21. The Committee shall withdraw the accreditation, provided:
 - i) The Editor informs the Committee that the journalist has been reassigned within the organisation.
 - ii) The Editor informs the Committee that the news organisation has closed down/or is no longer carrying 50 per cent content as news.
 - iii) The journalist is no longer an employee of the news organisation.
 - iv) If a journalist has been censured at least twice by the Press Council of India for professional misconduct.
 - v) If the Committee were to come to the conclusion that the journalist has made gross misuse of the accreditation facility, then he shall be given an opportunity to answer the charges, and the Committee shall record its reasons for withdrawal of accreditation.

Proviso As journalists enjoy the protection of the Constitution, the Accreditation Committee shall ensure that the accreditation is not cancelled for any malafide or frivolous reason by the Central or State Government or any politician or official who have a grudge against journalists publishing news which may be unpalatable. No media organisation or journalist shall be deprived of accreditation merely on the ground that he had published what was claimed to be an official secret, or that he has published reports which are unfavourable to the Government or its Ministers or Officials.

22. Apart from considering applications for grant and withdrawal of accreditation by news organisations and journalists, the Committee shall discuss and recommend measures for providing additional facilities to news organisations and journalists to improve the quality of news dissemination.
23. Editors/journalists deputed by editors of newspapers, magazines, news agencies, television and radio organisation, news portals who are accredited by a State Accreditation Committee shall be considered eligible for accreditation to the Government of India at its headquarters in New Delhi and offices in state capital/s, even though they may not be residing in the National Capital Region, with a view to ensure that the news relating to Government of India is disseminated in all regions and Editors/accredited

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journalists from all over India have access to Government of India's information and offices.

24. A journalist covering more than one state/cluster of States like North-East shall be eligible to have accreditation in all the states/cluster of State like North-East provided the Editor gives a certificate, justifying the needs for accreditation in more than one state.
25. The Government will put the Rules on the website of the concerned Ministry so that it is available for reference to the news organisations, journalists and the general public. The decisions of the Committee on admission of news organisations/journalists will be put on the notice board soon after the decisions are implemented.

k) Model Advertisement Policy Guide - 2014

Introduction:

Under the statute passed by the Parliament in 1978, the Press Council of India is enjoined upon to preserve the freedom of the Press and to maintain and improve the standards of newspapers and news agencies in India. This is further supported by clause (e) of section 13 (1) of the Press Council Act, whereby the Council is required to "keep under review any development likely to restrict the supply and dissemination of news of public interest and importance". There have been a number of occasions where the Press Council has been called upon to look into the complaints of improper or arbitrary denial of advertisements by various


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authorities, severely affecting the economic viability of newspapers, particularly of those in the smaller category.

In disposing of these complaints, the Council has often observed that governmental authorities should not single out a newspaper for discriminatory treatment in the matter of release of advertisements on account of its critical writings. Release of advertisements should be done not on an adhoc basis but on the basis of a notified policy formulated on some rationale criteria. Political consideration should not weigh in the issue. Distribution of advertisements should be equitable as far as possible but smaller newspapers which subsist on government advertisement revenue need special consideration of the governmental authorities. While advertisements cannot be claimed by newspapers as a matter of right, they are neither a grant to be released at the whim and discretion of the controlling authority.

Against this background, the Press Council of India has considered the question of formulating basic elements of what may be an advertisement policy for the Central and State Governments to adopt. These model guidelines propose broad principles of uniform applicability governing the release of advertisement by Central and State Government, Union Territory, Administration vis-a-vis their distribution, rate fixation and payment and canalisation.

Criteria:

- 1) Newspapers registered with the office of the Registrar of Newspapers for India shall be eligible for inclusion in the approved list for release of advertisements.

- 2). Advertisements shall be issued only to such newspapers as have been included in the approved list of Central/State Government for release of advertisements. For preparing the approved list, there should be a Committee with due representatives of officials as well as non-officials from among media personalities. For the purpose of selecting the newspapers for release of advertisements of different kinds, the authorities should be guided by the following criteria:
- a) Newspapers will be considered as being eligible for advertisement if it has had regular and uninterrupted publication for four months.
 - b) A newspaper seeking advertisement should fulfill the requisite qualification already prescribed by State and Central Government in regard to periodicity and regularity of publication, size of the publication, printing arrangements, editorial and managerial set-up.
 - c) The circulation of a newspaper has a bearing on the extent of advertisement released. The sources from which authenticated circulation figures could be obtained are:
 - i) The Registrar of Newspapers for India;
 - ii) Audit Bureau of Circulation; and
 - iii) Chartered Accountant, certifying annual circulation statement,

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The Figures obtained through anyone of these sources should be acceptable for determining the circulation of a newspaper to be enlisted and no other party should question the certificate issued by either of the three above.

- d) Payment of bills by the government should be made within a period of 45 to 60 days of the publication of the advertisement. The payment could be made at reasonable prevalent commercial rate, less 20% commission in view of the bulk value of release.
- e) It will be desirable that small newspapers having regional content are given some weightage.
- f) Suitable weightage may also be given to language newspaper/periodicals published from remote areas, such as North-East, tribal belts and hilly region and small paper run by linguistic groups.
- g) As far as possible, organs of political parties should not be unduly patronized by the governmental authorities.

General:

A list of newspapers eligible for empanelment should be made a public document available on request. The list

should be periodically sent to the Press Council of India, the RNI and also to the recognised newspaper associations.

All disputes regarding inclusion/non-inclusion/removal from the approved list for release of advertisements should be referred to an independent body which may consist of representatives of the Government and disinterested members of Press from socio-journalistic fields. Alternatively, dispute could be referred to a body created on the pattern of Press & Registration Appellate Board which may consist of the Chairman of the Press Council of India and four other members.

These guidelines are not exhaustive because of the limited nature of the issue involved. They have been prepared with the object to eliminate any possibility of discrimination which may directly or indirectly affect the freedom of the Press.

D) Advertisement on Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homeopathy

Newspapers shall not publish advertisement regarding Ayurveda, Yoga and Naturopathy, Unani, Siddha, Homeopathy for the use of diagnosis, cure, mitigation, treatment or prevention of any disease, disorder syndrome or condition:

- i) Without Unique Identification Number; or
- ii) the intended advertisement does not contain the contact details of the manufacturer; or

- iii) the contents of the advertisement directly or indirectly tantamount to vulgarity or obscenity; or
- iv) it refers to any Ayurvedic, Siddha or Unani drug in terms which suggest or calculated to lead to the use of that drug or medicine for the enhancement of height and dimensions or capacity of performance of male or female sexual organs; or
- v) it depicts photographs or testimonials of celebrities or government officials; or
- vi) it refers to any Government or Autonomous organization of the Government.

m) Principle Laid Down to Ascertain Paid News

Paid news would mean any words appearing in media, or omitted from media in lieu of a consideration given either earlier, at the time or after publication in any form. It is a clandestine financial transaction conceived in fraud and delivered in deceit, and hence it is difficult to get direct evidence to establish it. But while direct evidence may not be available it is possible to infer the incidence of paid news from strong circumstantial evidence.

At the same time, an onerous responsibility on election authorities is to ensure that the process of identifying paid news is exhaustive and credible because the reputation of publications and journalists is at stake.

No hard and fast rule or straight jacket formula is possible to be laid down to determine the issue of paid news and it will depend upon the facts and circumstances of each. Merely, because a particular news item appears to serve the cause of a particular candidate, it cannot be concluded that it was paid news. Further, publication of interview of a candidate or political coverage in the newspaper cannot itself be the reason to term the same to be paid news. Bad journalism may raise doubt about the credibility of news but from that to jump to the conclusion that those are paid news would be irrational. During the course of election, subject to the conditions laid down by the Election Commission of India, newspapers are free to make an honest assessment of prospects of candidates or the parties and its publication would not be paid news so long it is not established that consideration passed on for such publication. One has to bear in mind that many newspapers have editorial policy to support the candidate of particular thought or region and in such cases writing in favour of such candidates would not amount to paid news. Mere publication of an advertisement by the candidate on the date when the news item pertaining to this nature has been published, itself may not be conclusive to establish the impugned publication as a paid news.

State election authorities have little appreciation of the nuances of journalism and therefore fell into grave error while making comment on what is news and what may be paid news. The state electoral authorities before making public their findings of paid news ought to have applied themselves judiciously to the issue at hand especially because adverse findings would injure the reputations of newspapers/ periodicals.

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n) **Guidelines on reporting of COVID-19 and Safety Measures for Journalists**

Reporting on COVID-19 is challenging and unprecedented. Journalists and media persons are required to leave their home to report in difficult circumstances.

-UNICEF

The core principles of ethical journalism revolve around the *truth and accuracy, fairness and impartiality, humanity, service, accountability and independence*. Thus, the media has a huge responsibility during such pandemic. With these, the Press Council in terms of its mandate under section 13 of the Press Council Act, 1978 has evolved the guidelines to be a ready reference for the journalistic fraternity.

Avoid sensationalism and scaremongering – Shall avoid language and images that could heighten anxiety; which can inflame tensions and create more panic among the public.

Ensure Identity of affected people is protected: Do not identify names, images or identifying material without the permission of the relevant people.

Be accurate and report facts: Should mitigate the spread of misinformation; Avoid rumour and try not to speculate.

Always seek expert opinions – from medical professional, scientists and other stakeholders with relevant credentials on COVID – 19.

Always provide context and point people to credible information sources.

Be careful when using maps showing case distribution

Avoid any kind of profiling – Shall not attribute or repeat where the virus was generated such as geographic, community, race, religion or group of people etc. each time while reporting of new cases.

Media houses to give utmost priority to the safety of their journalists working at the ground level:

- a. Provide them PPE kits, while performing duty.
- b. Ensuring that journalists who get infected with the virus for performing duty, are provided with proper health assistance and financial aid.
- c. Providing proper leave for self-isolation to the journalists indicating or showing the symptoms of the Covid -19.

While recording/interview any interview/reporting journalists shall keep in mind the following:

- a. Keep a distance of at least six feet or to maintain appropriate distance without huddling.
- b. Avoid clip-on mics and use directional mics.
- c. Wear PPE Kits, masks and hand gloves.

o) Guidelines for Medical Reporting

Medical Reporting is considered as means of sharing of result through dissemination of health news, medical research and health policies.

- The journalists who are engaged in medical reporting should have skill and ability to interpret medical research reports. Special training of journalists for dissemination of health news in collaboration with health authorities would facilitate in right and appropriate coverage of health issues.
- The reporting should show patients in positive light by portraying them as individuals and not victims.
- It should be ensured that headlines reflect the health issues accurately and the story is balanced and free of damaging stereotypes.
- The identity of patients while doing stories or news should not be disclosed unless there is a specific permission to do so. Whenever possible, they should get written consent and if that is not possible informed consent must be obtained. Though it would be best to avoid identification.
- Whenever reporting on specific professional groups such as uniformed services, health professionals, care should be taken to obtain data from authorised sources.
- Identifying the hospitals or health care workers who in line of duty get infected create panic and fear amongst people and also have adverse impact on their morale. Further, it also serves no public interest.


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- Health reporters and people at all levels of news organisations should be trained and sensitized on various dimensions of medical reporting.
- p) **Provision of Section-23 of the Protection of Children from Sexual Offences (POCSO) Act, 2012***
 - (1) No person shall make any report or present comments on any child from any form of media or studio or photographic facilities without having complete and authentic information, which may have the effect of lowering his reputation or infringing upon his privacy.
 - (2) No reports in any media shall disclose, the identity of a child including his name, address, photograph, family details, school, neighborhood or any other particulars which may lead to disclosure of identity of the child: Provided that for reasons to be recorded in writing, the Special Court, competent to try the case under the Act, may permit such disclosure, if in its opinion such disclosure is in the interest of the child.

* The said provisions were adopted by the Council in its Meeting dated 22.9.2020.

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Part C : Laws Relating to the Press .

1. Constitution of India*

- i) Article 19(1)(a) read with Article 19(2) (Freedom of speech and expression)
- ii) Article 361-A (Protection of publication of proceedings of Parliament and State Legislature)
- iii) Article 105 and 104 (Parliament and Legislatures Privileges)
- iv) Article 21 (Individual's Right to Privacy emanating from Fundamental Right to life and liberty guaranteed to citizens of India)

2. Press Laws/Acts*

- i) The Indecent Representation of Women (Prohibition) Act, 1986
- ii) The Punjab Special Powers (Press) Act, 1956
- iii) The Press and Registration of Books Act, 1867
- iv) The Dramatic Performances Act, 1876
- v) The Indian Telegraph Amendment Act, 2006
- vi) The (Indian) Post Office Act, 1898
- vii) The Police (Incitement of Disaffection) Act, 1922

* As per time to time amendment made by the Government of India.

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- viii) The Official Secrets Act, 1923 (Act No. 1923)
- ix) The Telecom Regulatory Authority of India (TRAI) Act, 1997
- x) State Emblem of India (Prohibition of Improper Use) Act, 2005
- xi) The Representation of the People Act, 1951
- xii) The Delivery of Books and Newspapers (Public Libraries) Act, 1954
- xiii) The Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954
- xiv) The Working Journalists and Other Newspapers Employees (Conditions of Service and Miscellaneous Provision) Act, 1955
- xv) The Prize Competitions Act, 1955 (Act No. 42 of 1955)
- xvi) The Hindu Marriage Act, 1955
- xvii) The Young Persons (Harmful Publications) Act, 1956
- xviii) The Copyright Act, 1957
- xix) The Juvenile Justice (Care and Protection of Children) Act, 2015
- xx) The Criminal Law Amendment Act, 2018

- xxi) The Customs Act, 1962
- xxii) The Unlawful Activities (Prevention) Amendment Act, 2012
- xxiii) The Civil Defence Act, 1968
- xxiv) The Working Journalists (Fixation of Rates of Wages) Act, 1958
- xxv) The Contempt of Courts Act, 1971
- xxvi) The Press Council Act, 1978
- xxvii) The Prize Chits and Money Circulation Schemes (Banning) Act, 1978
- xxviii) National Security Act, 1980
- xxix) The Indian Evidence Act, 1872
- xxx) Right to Information Act, 2005
- xxxi) The Information Technology Act, 2000
- xxxii) The Disaster Management Act, 2005

3. Relevant Provisions of Indian Penal Code, 1860*


- a) Section 124- Assaulting President, Governor, etc., with intent to compel or restrain the exercise of any lawful power
- b) Section 153A- Promoting enmity between different groups on grounds of religion, race,

* As per time to time amendment made by the Government of India.


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place of birth, residence, language, etc. and doing acts prejudicial to maintenance of harmony.

- c) Section 153B- Imputations, assertions prejudicial to national-integration.
- d) Section 171G- False statement in connection with an election.
- e) Section 228- Intentional insult or interruption to public servant sitting in judicial proceeding
228(A) Disclosure of identity of the victim of certain offences etc,376,376-A,376-B,376-C or 376-D.
- f) Section 292-Sale, etc. of obscene books, etc.
- g) Section 293- Sale, etc. of obscene objects to young person.
- h) Section 294A- Keeping lottery office.
- i) Section 295A- Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs.
- j) Section 299-Culpable homicide.
- k) Section 499-Defamation.
- l) Section 500- Punishment for defamation.
- m) Section 501- Printing or engraving matter known to be defamatory.



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- n) Section 502- Sale of printed or engraved substance containing defamatory matter.
- o) Section 505 :-
 - i) Statements conducing to public mischief.
 - ii) Statements creating or promoting enmity, hatred or ill- will between classes.
 - iii) Offence under sub-section (2) committed in place of worship.
- p) Section 52 of IPC regarding act and facts relating to good faith.

4. Relevant Provisions of CrPC. 1973 (Act No.11 of 1974)*

- a) Section 88 - Power to take bond for appearance.
- b) Section 90- Summons and warrants of arrest.
- c) Section 92- Procedure as to letters and telegrams.
- d) Section 93- When search warrant may be issued.
- e) Section 108- Security for good behaviour from persons disseminating seditious matters.
- f) Section 144- Power to issue orders absolute at once in urgent cases of nuisance of apprehended danger.

* As per time to time amendment made by the Government of India.


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- g) Section 177 to 187- Place of inquiry or trial.
- h) Section 195- Prosecution for contempt of lawful authority of public servants.
- i) Section 320 - Compounding of offences.
- j) Section 325 - Procedure when Magistrate cannot pass sentence sufficiently severe.
- k) Section 326- Conviction or commitment on evidence partly recorded by one Magistrate and partly by another.

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Part D - Press Council's Powers, Practices and Procedures

The Press Council of India was first set up in the year 1966 by the Parliament on the recommendations of the First Press Commission with the object of preserving the freedom of the press and of maintaining and improving the standards of press in India. The present Council functions under the Press Council Act, 1978. It is a statutory, quasi judicial authority functioning as a watchdog of the press, for the press and by the press. It adjudicates the complaints against and by the press for violation of ethics and for violation of the freedom of the press respectively.

The Press Council is headed by a Chairman, who has by convention, been a retired judge of the Supreme Court of India. The Council consists of 28 other members of whom 20 represent the press and are nominated by the Hon'ble Chairman from the press organisations/news agencies recognised and notified by the Council as all India bodies representing editors, working journalists and owners and managers of newspaper and news agencies, five members are nominated from the two Houses of Parliament and three represent cultural, literary and legal fields as nominees of the Sahitya Academy, University Grants Commission and the Bar Council of India respectively. The members serve on the Council for a term of three years. A retiring member shall be eligible for renomination for not more than one term consecutively.

The Council is funded by the revenue collected by it as fee levied on the registered newspapers in the country on

the basis of their circulation. No fee is levied on newspapers with circulation less than 25000 copies. The deficit is made good by way of grant by the Central Government.

Complaint Procedure

1. Complaint Procedure for Filing the Complaint Against the Press

It is open to any person to lodge a complaint with the Press Council against a newspaper for a breach of the recognized ethical canons of journalistic propriety and taste. The complainant need not necessarily be the person aggrieved or directly involved. The alleged breach may be in the publication or non-publication of a news-item or statement, or other material, like cartoons, pictures, photographs, strips or advertisements which are published in a newspaper. Cases can also be initiated by any member of the public against any professional misconduct by an editor, working journalist, staff of a newspaper or engaged in freelance work. There can also be a complaint against any matter transmitted by a news agency by any means whatsoever.

By virtue of the Press Council (Procedure for Inquiry) Regulations, 1979, complaint shall be lodged with the Council within the following periods:

- (i) Dailies, News agencies, weeklies —within two months
- (ii) In other cases—within four months.

Provided that a relevant publication of an earlier date may be referred to in the complaint.

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Write to the Editor First

It is a requirement of the Inquiry Regulations that the complainant should initially write to the editor of the newspaper drawing his attention to what the complainant considers to be a breach of journalistic ethics or an offence against public taste. Such prior reference to the editor affords him an opportunity to deal with the matter in the first instance and thus allows respondent to take such remedial action as he might consider appropriate before the complaint is lodged with the Council. This rule is necessary because it acquaints the editor with the identity of his accuser and the details of the complaint. It is conceivable that in some instances the complainant has been wrongly informed or has misinterpreted the facts. In others, it may be a case of inadvertent error which the editor is only too ready to admit and correct. If complainant would be satisfied, it would be the end of the matter.

Where, after reference to the newspaper, the person desires to proceed with the complaint, he should enclose with his complaint copies of correspondence with the editor, if no reply has been received from the editor, the fact should be mentioned in the complaint.

The complainant has, in his complaint, to give the name and address of the newspaper, editor or journalist against whom the complaint is directed. A clipping of the matter or news-items complained of, in original or self attested copy (English/Hindi translation, if the news item(s) is in Indian language) should accompany the complaint. The complainant has to state in what manner the passage or news-items or the

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material complained of is objectionable. He should also supply other relevant particulars, if any.

In the case of a complaint against non-publication of material the complainant will, of course, say how that constitutes a breach of journalistic ethics.

The Council cannot deal with any matter which is sub-judice in the law court. The complainant has to declare that "to the best of his knowledge and belief he has placed all the relevant facts before the Council and that no proceedings are pending in any court of law in respect of any matter alleged in the complaint." A declaration that "he shall notify the Council forthwith if during the pendency of the inquiry before the Council any matter alleged in the complaint becomes the subject matter of any proceedings in a court of law" is also necessary.

2. Complaints Regarding Oppression to Press Freedom

A newspaper, a journalist or any institution or individual can complain against Central or State Government or any organization or person for interference with free functioning of the press or encroachment on the freedom of the press. Such complaints should contain full particulars of the alleged infringement whereupon the Council shall follow the procedure of inquiry set out herein above so far as may be.

The opinion expressed by the Council sub serves two useful purposes, namely (i) that any abuse of press freedom does not pass without anybody noticing it or raising a finger

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of protest, and (ii) that the press should not in its own interest indulge in scurrilous or other objectionable writings, such as have been considered below the level of recognized standards of journalistic ethics by a fair minded jury like the Council constituted of the press itself, for it would lead to the very loss of the much prized freedom of the press.

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Part E - Good Practices in Journalism

- i) A mistake of inconspicuous nature cannot be said to be violating the code of conduct of journalism. However, an error simpliciter shall needed to be corrected.
- ii) Great editors keep erasers and do not hesitate in using it when an error is pointed out.

Address your complaints or inquiries to:

The Secretary,

Press Council of India,

Soochna Bhawan, 8-C.G.O. Complex,

Lodhi Road, New Delhi-110003

Phone: 91 (011) 24366403/24366745

(Extn. 335, 336, 110 & 111)

Telefax: 91 (011) 24366405/24366745 (Extn. 224)

Email : secy-pci@nic.in

so.complaints-pci@gov.in

pcibppcomplaint@gmail.com

Website : www.presscouncil.nic.in

[Sections 13, 14 and 15 of the Press Council Act, 1978 and the Press Council (Procedure for Inquiry) Regulations, 1979 may be referred for complaint mechanism and working of the Council]

THE CABLE TELEVISION NETWORKS RULES, 1994

(29th September, 1994)
(as amended upto 27.02.2009)

G.S.R. 729 (E) – In exercise of the powers conferred by sub-section (1) of section 22 of the Cable Television Networks (Regulation) Ordinance, 1994 (Ordinance No.9 of 1994) the Central Government makes the following Rules namely:

1. Short title and commencement .- (1) These rules may be called the Cable Television Networks Rules, 1994.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions – In these rules unless the context otherwise requires:-

(a) "Authority" means the Telecom Regulatory Authority of India established under sub-section (1) of section 3 of the Telecom Regulatory Authority of India Act;

(aa) "Broadcaster" means any person including an individual, group of persons, public or body corporate, firm or any organization or body who/which is providing programming services and includes his/her authorized distribution agencies;

(aaa) "Cable Operator" means any person who provides cable service through a cable television network or otherwise controls or is responsible for the management and operation of a cable television networks;"

(b) "cable service" means the transmission by cables of programmes including re-transmission by cables of any broadcast television signals;

(c) "cable television network" means any system consisting of a set of closed transmission paths and associated signals generation, control and distribution equipment, designed to provide cable service for reception by multiple subscribers;

(d) "company" means a company defined in section 3 of the Companies Act, 1956;

(e) "form" means form appended to these rules;

(ee) "Multi-System Operator (MSO)" means a cable operator who receives a programming service from a broadcaster and/or his authorized agencies and re-transmits the same or transmits his own programming service for simultaneous reception either by multiple subscribers directly or through one or more local cable operators (LCOs), and includes his authorized distribution agencies by whatever name called;

(eee) "Notified area" means any area notified by the Central Government under section 4 (A) of the Act;"

(f) "person " means –

(i) an individual who is a citizen of India;

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(ii) an association of individuals or body of individuals, whether incorporated or not, whose members are citizens of India;

(iii) a company in which not less fifty-one percent of the paid-up share capital is held by the citizens of India :

(g) "programme" means any television broadcast and includes;

(i) exhibition of films, features, dramas, advertisements and serials through video cassette recorders or video cassette players;

(ii) any audio or visual or audio-visual live performance or presentation;

and the expression "programming service" shall be construed accordingly;

(h) "registering authority" means the registering authority notified under clause (h) of section 2 of the Cable Television Networks (Regulation) Ordinance 1994;

(i) "subscriber" means a person who receives the signal of cable television network at a place indicated by him to the cable operator, without further transmitting it to any other person.

3. Application for registration as a cable television network in India. - (1) Every application for registration as a cable television network in India shall be made in writing in Form I and shall be renewable after every twelve months.

(2) The application shall be addressed to the Registering Authority and delivered to his office in Form 1.

(3) (a) Every application for registration or renewal of registration shall be accompanied by -

(i) a fee of rupees five hundred only; and

(ii) the requisite documents mentioned in Form 1 and Form 2.

(b) Every application for issue of duplicate certificate of registration shall be accompanied by -

(i) a fee of rupees two hundred and fifty only; and

(ii) the requisite documents mentioned in Form 1.

(4) The amount of fee shall be deposited in the Head Post Office where the application for registration or renewal of registration or issue of duplicate certificate of registration is being made.

(5) The amount of the fees shall be deposited under the Head 'Un-Classified Receipts (U.C.R.)'.

4. Examination of Applications: (1) On receipt of an application under rule 3, the registering authority shall examine the application having regard to the provisions of section 4 of the Ordinance.

5. Registration:- (1) On being satisfied that the applicant fulfills the provisions of the Ordinance, the registering authority shall issue a registration certificate in Form 3.

Provided that where the registering authority is satisfied that the registration cannot be granted to the applicant, he shall inform the applicant in Form 4.

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(2) On receipt of an application under clause (b) of sub-rule (3) of rule 3 for issue of duplicate certificate the Registering Authority shall examine the application having regard to the provisions of rule 3 and shall issue a duplicate Registration Certificate in Form 3 A.

6. Programme Code. – (1) No programme should be carried in the cable service which:-

- (a) Offends against good taste or decency;
- (b) Contains criticism of friendly countries;
- (c) Contains attack on religions or communities or visuals or words contemptuous of religious groups or which promote communal attitudes;
- (d) Contains anything obscene, defamatory, deliberate, false and suggestive innuendos and half truths;
- (e) Is likely to encourage or incite violence or contains anything against maintenance of law and order or which promote-anti-national attitudes;
- (f) Contains anything amounting to contempt of court;
- (g) Contains aspersions against the integrity of the President and Judiciary;
- (h) Contains anything affecting the integrity of the Nation;
- (i) Criticises, maligns or slanders any individual in person or certain groups, segments of social, public and moral life of the country ;
- (j) Encourages superstition or blind belief;
- (k) Denigrates women through the depiction in any manner of the figure of a women, her form or body or any part thereof in such a way as to have the effect of being indecent, or derogatory to women, or is likely to deprave, corrupt or injure the public morality or morals;
- (l) Denigrates children;
- (m) Contains visuals or words which reflect a slandering, ironical and snobbish attitude in the portrayal of certain ethnic, linguistic and regional groups
- (n) Contravenes the provisions of the Cinematograph Act, 1952.
- (o) is not suitable for unrestricted public exhibition
Provided that no film or film song or film promo or film trailer or music video or music albums or their promos, whether produced in India or abroad, shall be carried through cable service unless it has been certified by the Central Board of Film Cetification (CBFC)) as suitable for unrestricted public exhibition in India.

Explanation – For the purpose of this clause, the expression “unrestricted public exhibition” shall have the same meaning as assigned to it in the Cinematograph Act, 1952 (37 of 1952);

(2) The cable operator should strive to carry programmes in his cable service which project women in a positive, leadership role of sobriety, moral and character building qualities.

(3) No cable operator shall carry or include in his cable service any programme in respect of which copyright subsists under the Copyright Act, 1972 (14 of 1972) unless he has


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been granted a licence by owners of copyright under the Act in respect of such programme.

(4) Care should be taken to ensure that programmes meant for children do not contain any bad language or explicit scenes of violence.

(5) Programmes unsuitable for children must not be carried in the cable service at times when the largest numbers of children are viewing.

(6) No cable operator shall carry or include in his cable service any television broadcast or channel, which has not been registered by the Central Government for being viewed within the territory of India

PROVIDED that a cable operator may continue to carry or include in his cable service any Television broadcast or channel, whose application for registration to the Central Government was made on or before 11th May, 2006 and is under consideration, for a period upto [31st May, 2008]¹ or till such registration has been granted or refused, whichever is earlier

PROVIDED further that channels uplinking from India, in accordance permission for uplinking granted before 2nd December, 2005, shall be treated as registered television channels and can be carried or included in the cable service.

7. Advertising Code. - (1) Advertising carried in the cable service shall be so designed as to conform to the laws of the country and should not offend morality, decency and religious susceptibilities of the subscribers.

- (2) No advertisement shall be permitted which-
- (i) derides any race, caste, colour, creed and nationality;
 - (ii) is against any provision of the Constitution of India.
 - (iii) tends to incite people to crime, cause disorder or violence, or breach of law or glorifies violence or obscenity in any way ;
 - (iv) presents criminality as desirable;
 - (v) exploits the national emblem, or any part of the Constitution or the person or personality of a national leader or a State dignitary;
 - (vi) in its depiction of women violates the constitutional guarantees to all citizens. In particular, no advertisement shall be permitted which projects a derogatory image of women. Women must not be portrayed in a manner that emphasises passive, submissive qualities and encourages them to play a subordinate, secondary role in the family and society. The cable operator shall ensure that the portrayal of the female form, in the programmes carried in his cable service, is tasteful and aesthetic, and is within the well established norms of good taste and decency;
 - (vii) exploits social evils like dowry, child marriage.
 - (viii) promotes directly or indirectly production, sale or consumption of-
 - (A) cigarettes, tobacco products, wine, alcohol, liquor or other intoxicants;
 [.....]²

¹ Amended vide GSR 413(E) dated 29th May, 2008

² Deleted vide GSR 104 (E) dated 25th February, 2008


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[Provided that a product that uses a brand name or logo, which is also used for cigarettes, tobacco products, wine, alcohol, liquor, or other intoxicants, may be advertised on cable services subject to the following conditions that-

- (i) the story board or visual of the advertisement must depict only the product being advertised and not the prohibited products in any form or manner;
- (ii) the advertisement must not make any direct or indirect reference to prohibited products;
- (iii) the advertisement must not contain any nuances or phrases promoting prohibited products;
- (iv) the advertisement must not use particular colours and layout or presentations associated with prohibited products;
- (v) the advertisement must not use situations typical for promotion of prohibited products when advertising the other products:

Provided further that –

- (i) the advertiser shall submit an application with a copy of the proposed advertisement along with a certificate by a registered Chartered Accountant that the product carrying the same name as cigarettes, tobacco products, wine, alcohol, liquor or other intoxicants is distributed in reasonable quantity and is available in a substantial number of outlets where other products of the same category are available and the proposed expenditure on such advertising thereon shall not be disproportionate to the actual sales turnover of the product:
- (ii) all such advertisements found to be genuine brand extensions by the Ministry of Information and Broadcasting shall be previewed and certified by the Central Board of Film Certification as suitable for unrestricted public exhibition and are in accordance with the provisions contained in sub-clause (i) to (v) of the first proviso, prior to their telecast or transmission or retransmission.]³

(B) infant milk substitutes, feeding bottle or infant food.


(3) No advertisement shall be permitted, the objects whereof, are wholly or mainly of a religious or political nature; advertisements must not be directed towards any religious or political end.

(3A) No advertisement shall contain references which hurt religious sentiments.

(4) The goods or services advertised shall not suffer from any defect or deficiency as mentioned in Consumer Protection Act, 1986.

(5) No advertisement shall contain references which are likely to lead the public to infer that the product advertised or any of its ingredients has some special or miraculous or super-natural property or quality, which is difficult of being proved.

³ Inserted vide GSR 138(E) dated 27th February, 2009


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(6) The picture and the audible matter of the advertisement shall not be excessively 'loud;

(7) No advertisement which endangers the safety of children or creates in them any interest in unhealthy practices or shows them begging or in an undignified or indecent manner shall not be carried in the cable service.

(8) Indecent, vulgar, suggestive, repulsive or offensive themes or treatment shall be avoided in all advertisements.

(9) No advertisement which violates the Code for self regulation in advertising, as adopted by the Advertising Standards Council of India (ASCI), Mumbai for public exhibition in India, from time to time shall be carried in the cable service.

(10) All advertisement should be clearly distinguishable from the programme and should not in any manner interfere with the programme viz., use of lower part of screen to carry captions, static or moving alongside the programme.

(11) No programme shall carry advertisements exceeding 12 minutes per hour, which may include up to 10 minutes per hour of commercial advertisements, and up to 2 minutes per hour of a channel's self-promotional programmes.

8. Register.- Each cable operator shall maintain a register in Form 5 for each month of the year for which the registration is granted.

9. Standard interconnection agreements, tariffs and quality of service standards for the service providers in the areas notified under Section 4A of the Act: The Authority may, on issue of any notification under section 4 A of the Act by the Central Government, take appropriate decisions on the following and duly notify the same:

- (a) standard interconnection agreement to be used for entering into commercial agreements for distribution in the notified areas, of pay or free-to-air channels among (i) Broadcasters and multi-system operators; and (ii) multi-system operators and local cable operators;
- (b) the maximum limits of security deposit and monthly rental for supply, maintenance and servicing of set top boxes of prescribed specifications to the subscribers on rental basis by multi-system operators in the notified areas;
- (c) tariff for the basic service tier along with the minimum number of free-to-air channels to be provided by the multi-system operators / multi-system operators to the subscribers in the notified areas;
- (d) regulations for quality of service to be provided by the multi-system operators or local cable operators to the subscribers in the notified areas;

10. Nature and prices of channels: (1) Every broadcaster shall declare the nature of each of its channels as 'pay' or 'free-to-air' as well as the maximum retail price of each of its 'pay' channels to be charged by the multi-system operators or local cable operators from the subscribers in each of the notified areas.

(2) Every broadcaster shall file his declaration of the nature and prices of channels under sub-rule (1) before the Authority and the Central Government within fifteen days of the date of notification by the Central Government under section 4 A of the Act.

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(3) If in the opinion of the Authority, the price declared by the broadcaster in respect of any of its pay channels is too high, the Authority may, under section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), fix and declare the maximum retail price of such a pay channel or fix a general maximum retail price for all pay channels within which the broadcasters may declare their individual prices for each pay channel, to be paid by the subscribers in any of the notified areas, and such an order of the Authority shall be binding on the broadcasters and the multi-system operators and local cable operators.

(4) Every broadcaster shall enter into interconnection agreements with multi-system operators in the notified areas as per the standard interconnection agreement, or with any mutually agreed modifications on a non-discriminatory basis, as per the regulations or directions or orders of the Authority.

(5) If a broadcaster fails to declare the price of any of its pay channels within the prescribed time limit under sub-rule (2) or refuses or fails to comply with the direction under sub-rule (3) or refuses or fails to enter into an interconnect agreement with a multi-system operator permitted by the Central Government under sub-rule (3) of rule 11 within the time limit as prescribed by the Authority, then the Authority may, so as to protect the interests of the subscribers, take interim measures to ensure supply of signals.


(6) In the event of non-compliance by the broadcaster of the directions issued by the Authority under sub-rule (5), the Central Government may, on the recommendations of the Authority, suspend the permission granted to the broadcaster under uplinking or downlinking guidelines as the case may be, to broadcast that channel in the country or any part thereof.

(7) Every declaration filed by the broadcaster under sub-rule (1) or maximum retail price fixed by the Authority under sub-rule (3) above shall normally remain valid for a period of one year from the date of such declaration or fixation, as the case may be, subject to the condition that every broadcaster will be free to revise the price of any channel or convert a pay channel to free-to-air or a free-to-air channel to a pay channel by giving one month's notice to the multi-system operator and subscribers:

Provided that no increase in price beyond the individual limit, if any, specified by the Authority, shall be valid without prior approval of the Authority:

Provided further that no such price increase shall be valid beyond the general maximum retail price for all channels fixed by the Authority.

11. Grant of permission to multi-system operators to provide cable services with addressable systems in the notified areas.- (1) No multi-system operator shall provide cable television network services with addressable systems in any one or more notified areas without a valid permission from the Central Government under sub-rule 3 of rule 11.


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(2) Every multi-system operator who desires to provide cable television network services with addressable systems in any of the notified areas, shall, within thirty days of the issue of the notifications under section 4 A of the Act by the Central Government, apply for permission to the Ministry of Information & Broadcasting in Form 6 annexed to these Rules, along with processing fee of rupees ten thousand.

(3) The Ministry of Information & Broadcasting in the Government of India shall, within thirty days of the receipt of the application, grant, or refuse, permission to the applicant to provide addressable systems in the notified areas after considering its suitability or otherwise on the basis of information given in respect of its existing operational area, actual number of subscribers and addresses of its local cable operators in each of the notified areas, commercial arrangements with the broadcasters and local cable operators, if any, financial strength, management capability, security clearance and preparedness to supply and maintain adequate number of set top boxes for its subscribers, installation of its subscriber management system and compliance with all other quality of service standards as may be specified by the Authority.

(4) The Central Government may lay down such terms and conditions of permission under sub-rule (3) as may be deemed necessary and desirable to ensure compliance with the provisions of this Act as well as the regulations, directions and orders made by the Authority.

(5) No multi-system operator shall continue to provide any cable television network services in the notified areas after the date notified therein, without obtaining prior permission from the Central Government.

(6) In the event of a multi-system operator who fails or refuses to enter into an interconnection agreement with a broadcaster of a pay channel or an adequate number of local cable operators in the notified areas or who violate of the terms and conditions of the permission granted to it under sub-rule (3), within the time limit as prescribed by the Authority, the Authority may, so as to protect the interests of the subscribers, take interim measures to ensure supply of signals.

(7) In the event of a violation by a multi-system operator of one or more of the terms and conditions of the permission granted under sub-rule (3), the Central Government may suspend or revoke such permission for such period and for such notified areas as deems fit: Provided that no such order of suspension or revocation shall be made without giving a reasonable opportunity to the multi-system operator to explain its position.

12. Public awareness campaign about Conditional Access System scheme: (1) Every multi-system operator granted permission under sub-rule (3) of Rule 11 shall create public awareness among the subscribers in the notified areas for a period of thirty days from the date to be specified by the Authority, either through advertisements in the print and electronic media or through other means (e.g. leaflets, printing on the reverse of the receipts, personal visits, group meetings with subscribers or consumer groups etc.) the salient features of the Conditional Access System scheme as approved by the Authority

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for implementation by the multi-system operator, in the notified areas, and in particular the following:-

- (a) A-la-carte subscription rates and the periodic intervals at which such subscriptions are payable for receiving the various pay channels;
 - (b) The refundable security deposit and the daily or monthly rental payable for the set-top box and its detailed specifications such as make, model, technical specifications, user manuals and maintenance centers etc.;
 - (c) The number and names of free-to-air channels that the multi-system operator will provide to the subscribers and specific placement of each channel in the prime or non-prime bands;
 - (d) The prescribed monthly service charge to be paid by each subscriber for receiving the basic service tier fixed by the Authority and the number of additional free-to-air channels, if any, offered by the Multi-System Operator.
 - (e) The Quality of Service Standards specified by the Authority and the arrangements made by the Multi-System Operator to comply with these standards;
 - (f) The Subscriber Management System established by the multi-system operator to demonstrate the functioning of the Set Top Boxes and interact with the subscribers to explain the various financial, logistic and technical aspects of the system for its smooth implementation;
 - (g) The subsisting arrangements for resolution of disputes between the multi-system operator and local cable operators and the subscribers in respect of the quality of service standards, payments and refunds etc.
- (2) The Authority may also arrange public awareness activities in the notified areas either directly or through authorized officers or consumer organizations etc.

13. Supply and installation of Set Top Boxes.- (1) Every subscriber in the notified areas who is desirous of receiving one or more pay channels shall, during the public awareness campaign under Rule 12 or within fifteen days after its expiry, apply to any one of the multi-system operators granted permission under sub-rule (3) of rule 11 either directly or through any of his linked local cable operators, to supply and install one or more set top boxes in his premises as per the scheme approved by the Authority and deliver the requisite channels through the same;

Provided that every subscriber shall be free to buy a Set Top Box of approved quality from the open market, if available and technically compatible with the multi-system operator's system, and no multi-system operator or Cable Operator shall force any subscriber to buy or to take on rent the set top box from him only.

(2) Every subscriber in the notified areas who desires to receive one or more pay channels, and who failed to apply within the period prescribed under sub-rule (1) may at any time either buy a set top box of approved quality from the open market, if available and technically compatible with the multi-system operator's system, or apply to any one


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of the multi-system operators granted permission under sub-rule (3) of rule 11 either directly or through any of his linked local cable operators, to supply and install one or more set top boxes in his premises as per the scheme approved by the Authority and deliver the requisite channels through the same or through the set top box of approved quality acquired by the applicant on his own, as the case may be.

(3) Every multi-system operator shall procure, supply and install the required number of set top boxes of approved quality in the premises of every applicant under sub-rule (1) or sub-rule (2) within a period as may be determined by regulation or order by the Authority from the date of receipt of such application, and transmit the requisite pay channels through the same or through the set top box of approved quality acquired by the applicant on his own, as the case may be.


(4) Every multi-system operator shall set up and operationalise its subscriber management system within a time frame as may be determined by regulation or order by the Authority, for ensuring efficient and error-free service to the subscribers by recording and providing individualized preferences for pay channels, billing cycles, refunds etc.

(5) In the event of the failure of any multi-system operator to supply and install a set top box each in the premises of one or more applicants under sub-rule (1) or to operationalise subscriber management system within the time limit as determined by regulation or order by the Authority, then the Authority may, so as to protect the interests of the subscribers, take interim measures to ensure supply of signals.

14. Dispute Resolution Mechanism.- Every multi-system operator shall be obliged to maintain the quality of service as per the standards, including the arrangements for handling complaints and redressal of grievances of the subscribers, as may be determined by regulation or order by the Authority. The Authority may look into the efficacy of such arrangements and issue necessary directions to the concerned parties for compliance.

15. Transition to addressable systems.- (1) Immediately on operationalisation of the subscriber management system and the installation of the set top boxes under rule 13, every multi-system operator shall start transmitting the pay channels in encrypted as well as unencrypted form for a period of not less than fifteen days to test out the quality of service, remove any technical or operational snags and enable the subscribers to become familiar with the operation of addressable systems at their end.

(2) Before the start of the transition period under sub-rule (1), the Authority may call for progress or compliance reports from the service providers in the Forms appended to these rules, and at intervals, as may be specified by it to satisfy itself that all the multi-system operators permitted under sub-rule 3 of rule 11 have completed all the necessary arrangements to switch over to transmission of pay channels through addressable systems in the whole of the notified area by the date notified by the Central Government under section 4A of the Act.



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(3) In the event of satisfactory completion of all arrangements, every multi-system operator in the notified area shall start transmitting pay channels only through addressable systems from the date notified by the Central Government under section 4A of the Act.

(4) In the event of the Authority coming to a conclusion that the arrangements made by the multi-system operators are not adequate and the switch over to transmission of pay channels through addressable systems is likely to be against the interests of a substantial portion of the subscribers in any notified area, the Authority may recommend to the Central Government an extension of the notified date by such period as in its opinion is the minimum required for the satisfactory completion of the necessary arrangements by the multi-system operators.

(5) On receipt of a recommendation from the Authority under sub-rule (4), and before the expiry of the notified date, the Central Government may, if it is satisfied that it is not in public interest to switch over to addressable systems on the notified date and that circumstances so warrant to extend the notified date to protect the interests of a substantial portion of subscribers in the notified area, issue another notification indicating the revised date under section 4 A of the Act

Provided that the power to issue notification in respect of the areas already notified by the Government of India in the Ministry of Information and Broadcasting under section 4 A of the Act vide S. O. No. 792 (E) dated 10th July 2003 shall be subject to the orders and final outcome of the LPA No 985/2006 & CMs 6660/2006 and 6658/2006 pending in the High Court of Delhi.

(6) Every multi-system operator shall complete the remaining arrangements within such extended period and start transmitting the pay channels only through addressable systems from such revised date as notified under sub-rule (5).

FORM 1
(See rule 3 (1))

TRUE COPY

(To be submitted in duplicate)

Form of application for *registration/renewal of registration/issue of duplicate certificate of registration as a cable operator.

To
The Head Postmaster
Head Post Office

Application for *registration/renewal of registration/issue of duplicate certificate of registration as a cable operator.

1. (a) Name of Applicant (individual/firm/company/association of persons/body of individuals)*
(b) *Age/Date of establishment/Date of incorporation.
2. (a) Address (office)
(b) Telephone number (if any)
3. (a) Nationality (for individual applicants/body of individuals)
(b) By birth/domicile.
4. (a) Amount of fee paid for *registration/renewal/issue of duplicate certificate
Rs.....
(b) Name of Head Post Office.....
(Attach copy of challan vide which the fees have been deposited)
5. Area in which cable television network is working/proposed to be set up.....
6. Date from which the cable television network is operating/proposed to be set up.....
7. Number of channels being provided/
proposed to be provided (with names).....
8. (a) Whether using Television Receive Only(TVRO) Yes/No
(b) If yes, number and size of TVRO.....
(c) Location.....
9. Names of Doordarshan satellite channels included in cable service.....
10. Copy of earlier registration certificate enclosed. Yes/No
(To be filled in only for renewal of registration).
11. (a) State reasons for issue of duplicate certificate of registration.....
(attach mutilated or defaced original certificate of registration/copy of report made to the police in case of theft or loss of the original certificate)
(b) Period of validity of the original Registration Certificate for which the duplicate Registration Certificate is being sought.....
(To be filled in only for issue of duplicate Registration Certificate)
12. Declaration in Form 2 enclosed. Yes/No
(To be filled in for *registration/renewal of registration only)

~~TRUE COPY~~

I/We ----- the applicant(s) *(Individual/firm/company/association of persons/body of individuals) do hereby declare that the above facts are correct in all respects.

Signature of Applicant
*(Individual/firm/company/association of persons/body of individuals)

Place: Name -----

Date: Address -----

Score out the word or words which are not applicable.

FORM 2
(see rule 3(1-3))

I/We ----- the applicant(s) *(individual/firm/company/association of person/body of individuals) for registration as a cable operator/renewal of registration as a cable operator do hereby declare that:-

- (i) I/We shall ensure that my / our television network shall be run in accordance with the provisions of the Cable Television Networks (Regulation) Ordinance 1994 at all times.
- (ii) I/We shall not permit/associate any person who is not eligible to run a cable television network under the Cable Television Networks (Regulation) Ordinance 1994 to run/with the running of my/our cable television network.
- (iii) I/We shall strive to the best of my / our ability to provide cable service to the satisfaction of the subscriber (s) of my/our cable television network.
- (iv) I/We shall strive to the best of my / our ability to ensure that my / our cable television network is not used for any unlawful purpose.
- (v) I/We shall obtain the necessary approval/clearance from the relevant authority for the running of my / our cable television network.
- (vi) I/We shall abide by any direction issued by the Central Government in respect of the running of a cable television network within India.

Signature of Applicant
* (Individual/firm/company/association of persons / body of individuals)

Place: Name -----

Date: Address -----

* Score out the word or words which are not applicable

FORM 3

~~TRUE COPY~~

260

(See rule 5)
Government of India
Head Post Office
REGISTRATION CERTIFICATE
NUMBER

1. Shri/Shrimati/M/s ----- resident of ----- is registered as a cable operator (individual, firm, *Company, association of persons or body of individuals) for running a cable television network at the following address ----- in the city/town of ----- for a period of twelve months with effect from -----

His Registration Number is -----

2. This Certificate is only valid for the premises stated above.
3. This Registration Certificate is not transferable.
4. The Certificate shall remain valid for the period indicated above or till the holder carries on the cable service or where the surrender of the certificate is accepted by the competent authority.

Head Post Master
Head Post Office

Place : ----- (town/city)

Date:

TO BE DISPLAYED PROMINENTLY ON THE PREMISES OF THE CABLE OPERATOR.

* Tick whichever is appropriate.

FORM 3A

TRUE COPY

(See Rule 5(2))

Government of India
Head Post Office

DUPLICATE REGISTRATION CERTIFICATE

1. Shri/Shrimati/M/s.....resident ofis registered as a cable operator *(individual/firm/company/association of persons or body of individuals) for running a cable television network at the following addressin the city/town of for a period of twelve months with effect from.....(date from which the original Registration Certificate was valid).

His Registration number is

2. This Certificate is valid only for the premises stated above.
3. This Registration Certificate is not transferable.
4. The Certificate shall remain valid for the period indicated above or till the holder carries on the cable service or where the surrender of the certificate is accepted by the competent authority.

Head Post Master
Head Post Office
.....(town/city)

Place:
Date:

TO BE DISPLAYED PROMINENTLY ON THE PREMISES OF THE CABLE OPERATOR

*Tick whichever is appropriate

FORM 4
(See proviso to rule 5 (1))

TRUE COPY

To

Sir,

Reference your application dated ----- for registration as a cable operator.

The necessary registration cannot be granted to you for the following reason (s): -

- (i) Application is incomplete.
- (ii) Registration fee has not been tendered.
- (iii) Applicant is not a citizen of India.
- (iv) Less than fifty one percent of the paid-up share capital of the applicant company is held by citizens of India.

Head Post Master
Head Post Office

Place:-----

Date:-----

INDIA
Forbes


FORM 5
(See rule 8)

Form of register to be maintained by each cable operator.

Sl. No	Encrypted channel/programme	Duration		Date	Month	Year
		From	To			
1	2	3	4	5	6	7

Signature of cable operator

FORM 6


TRUE COPY

[See Rule 11 (2)]

(To be submitted in duplicate)

To

The Secretary
Ministry of Information & Broadcasting,
'A' Wing, Shastri Bhawan,
New Delhi – 110001.

Subject : Application for grant of permission to multi system operators to provide cable television network services with addressable system in any or more notified areas.

Sir,

I hereby submit the following details for grant of permission.

- 1.(a) Name of the Applicant (individual/firm/company/association of persons/body of individuals) **
 - (b) Age/Date of establishment/Date of Incorporation
- 2.(a) Nationality (for individual applicants/body of individuals)
 - (b) By birth/domicile
3. Details of payment of Processing Fee
4. Details of Registration as a Cable Operator
 - (a) Name of the Post Office with which registered
 - (b) Registration No./Validity up to
 - (c) Copy of the Registration Certificate (enclose)
5. Complete Postal Address with Telephone/Fax No./E-mail ID
 - (a) Corporate Office/Head Office
 - (b) Registered Office
 - (c) Regional Offices
 - (d) Address of Correspondence
6. Name of authorized contact person, his designation and telephone/fax No./E-mail ID
7. *Registration detail under Companies Act, 1956: Incorporation No. and Date (Attach a copy of Certificate of Incorporation and Memorandum and Article of Associations)
8. *Board of Directors (Attach list of Directors along with bio-data of each Director giving date of birth, place of birth, parentage, nationality, permanent address, residential address, official address, passport No. (if any), qualification, experience, etc.
9. *Attach list of key executives including CEO/MD along with details as in 8 above.

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10. *(i) Authorized Share Capital, (ii) Paid-up Share Capital, (iii) Net worth (enclose a copy of the audited Balance Sheet and Profit & Loss Account for the immediate preceding year and certificate of Net Worth on the basis of these documents by a Chartered Accountant).
11. Details of availability/arrangement of funds (sufficient proof to be enclosed).
12. (i) Present Area of Operation (if in more than one city, city-wise details to be given).
(ii) CAS notified Area or Areas proposed to be covered by the applicant (if in more than one city, then city-wise details should be given)
13. No. of channels being provided in unencrypted form (own/broadcasters') (give names separately for own channels and broadcasters' channels).
14. Other value added services being provided (details along with their copies of licenses).
15. Total no. of each of local cable operators and subscribers covered (attach list of local cable operators with their telephone nos./fax nos./E-mail IDs and the number of subscribers each of the cable operators has with him.)
16. Details of past experience/field of activity.
17. Preparedness to supply and maintain adequate number of Set Top Boxes for the subscribers and installation of subscriber management system (give details to substantiate your claim including no. of Set Top Boxes already available/orders placed/network of authorized persons/agents to supply and provide after sales service).
18. Number of Agreements signed with broadcasters to supply their channels under CAS scheme (Give names of broadcasters and their channels for which agreements signed along with copies of agreements to substantiate your claim)
19. What arrangements have been made/proposed to be made to give wide publicity to CAS scheme in each of the notified areas, as approved by the Authority. (Give full details)

I/We, the applicant(s) *(individual/firm/company/association of persons/body of individuals) do hereby declare that the above facts are correct in all respects.

I/We hereby undertake to abide by all the conditions/directions/orders that the Central Government or the Authority may lay down/issue for the smooth implementation and operation of CAS scheme in the notified areas.

Signature of Applicant/Authorized person
*(individual/firm/company/association
of persons/body of individuals)

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Place

Name

Date

Address

- * To be given in case applicant is a Company/Firm
- ** Score out the word or words which are not applicable.

Forbes ^{INDIA}

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266

NOTIFICATION

New Delhi, the 27th October, 2009

G.S.R. 781 (E).— In exercise of the powers conferred by clause (z) of sub-section (2) of section 87, read with sub-section (2) of section 69A of the Information Technology Act 2000, (21 of 2000), the Central Government hereby makes the following rules, namely:

1. Short title and commencement.— (1) These rules may be called the Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.— In these rules, unless the context otherwise requires—

- (a) "Act" means the Information Technology Act, 2000 (21 of 2000);
- (b) "computer resource" means computer resource as defined in clause (k) of sub-section (1) of section 2 of the Act;
- (c) "Designated Officer" means an officer designated as Designated Officer under rule 3.
- (d) "Form" means a form appended to these rules;
- (e) "intermediary" means an intermediary as defined in clause (w) of sub-section (1) of section 2 of the Act;
- (f) "nodal officer" means the nodal officer designated as such under rule 4;
- (g) "organisation" means—
 - (i) Ministries or Departments of the Government of India;
 - (ii) state Governments and Union territories;
 - (iii) any agency of the Central Government, as may be notified in the Official Gazette, by the Central Government;
- (h) "request" means the request for blocking of access by the public any information generated, transmitted, received, stored or hosted in any computer resource;
- (i) "Review Committee" means the Review Committee constituted under rule 419A of Indian Telegraph Rules, 1951.

3. Designated Officer.— The Central Government shall designate by notification in Official Gazette, an officer of the Central Government not below the rank of a Joint Secretary, as the "Designated Officer", for the purpose of issuing direction for blocking for access by the public any information generated, transmitted, received, stored or hosted in any computer resource under sub-section (2) of section 69A of the Act.

4. Nodal officer of organisation.— Every organisation for the purpose of these rules, shall designate one of its officer as the Nodal Officer and shall intimate the same to the Central Government in the Department of Information Technology under the Ministry of Communications and Information Technology, Government of India and also publish the name of the said Nodal Officer on their website.

5. Direction by Designated Officer.— The Designated Officer may, on receipt of any request from the Nodal Officer of an organisation or a competent court, by order direct any Agency of the Government or intermediary to block for access by the public any information or part thereof generated, transmitted, received, stored or hosted in any computer resource for any of the reasons specified in sub-section (1) of section 69A of the Act.

6. Forwarding of request by organisation.— (1) Any person may send their complaint to the Nodal Officer of the concerned organisation for blocking of access by the public any information generated, transmitted, received, stored or hosted in any computer resource:

Provided that any request, other than the one from the Nodal Officer of the organisation, shall be sent with the approval of the Chief Secretary of the concerned State or Union territory to the Designated Officer.

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Provided further that in case a Union territory has no Chief Secretary, then such request may be approved by the Adviser to the Administrator of that Union territory.

(2) The organisation shall examine the complaint received under sub-rule (1) to satisfy themselves about the need for taking of action in relation to the reasons enumerated in sub-section (1) of section 69A of the Act and after being satisfied, it shall send the request through its Nodal Officer to the Designated Officer in the format specified in the Form appended to these rules.

(3) The Designated Officer shall not entertain any complaint or request for blocking of information directly from any person.

(4) The request shall be in writing on the letter head of the respective organisation, complete in all respects and may be sent either by mail or by fax or by e-mail signed with electronic signature of the Nodal Officer.

Provided that in case the request is sent by fax or by e-mail which is not signed with electronic signature, the Nodal Officer shall provide a signed copy of the request so as to reach the Designated Officer within a period of three days of receipt of the request by such fax or e-mail.

(5) On receipt, each request shall be assigned a number alongwith the date and time of its receipt by the Designated Officer and he shall acknowledge the receipt thereof to the Nodal Officer within a period of twenty four hours of its receipt.

7. Committee for examination of request.— The request alongwith the printed sample content of the alleged offending information or part thereof shall be examined by a committee consisting of the Designated Officer as its chairperson and representatives, not below the rank of Joint Secretary in Ministries of Law and Justice, Home Affairs, Information and Broadcasting and the Indian Computer Emergency Response Team appointed under sub-section (1) of section 70B of the Act.

8. Examination of request.— (1) On receipt of request under rule 6, the Designated Officer shall make all reasonable efforts to identify the person or intermediary who has hosted the information or part thereof as well as the computer resource on which such information or part thereof is being hosted and where he is able to identify such person or intermediary and the computer resource hosting the information or part thereof which have been requested to be blocked for public access, he shall issue a notice by way of letters or fax or e-mail signed with electronic signatures to such person or intermediary in control of such computer resource to appear and submit their reply and clarifications, if any, before the committee referred to in rule 7, at a specified date and time, which shall not be less than forty-eight hours from the time of receipt of such notice by such person or intermediary.

(2) In case of non-appearance of such person or intermediary, who has been served with the notice under sub-rule (1), before the committee on such specified date and time, the committee shall give specific recommendation in writing with respect to the request received from the Nodal Officer, based on the information available with the committee.

(3) In case, such a person or intermediary, who has been served with the notice under sub-rule (1), is a foreign entity or body corporate as identified by the Designated Officer, notice shall be sent by way of letters or fax or e-mail signed with electronic signatures to such foreign entity or body corporate and any such foreign entity or body corporate shall respond to such a notice within the time specified therein, failing which the committee shall give specific recommendation in writing with respect to the request received from the Nodal Officer, based on the information available with the committee.

(4) The committee referred to in rule 7 shall examine the request and printed sample information and consider whether the request is covered within the scope of sub-section (1) of section 69A of the Act and that it is justifiable to block such information or part thereof and shall give specific recommendation in writing with respect to the request received from the Nodal Officer.

(5) The designated Officer shall submit the recommendation of the committee, in respect of the request for blocking of information alongwith the details sent by the Nodal Officer, to the Secretary in the Department of Information Technology under the Ministry of Communications and Information

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Technology, Government of India (hereinafter referred to as the "Secretary, Department of Information Technology").

(6) The Designated Officer, on approval of the request by the Secretary, Department of Information Technology, shall direct any agency of the Government or the intermediary to block the offending information generated, transmitted, received, stored or hosted in their computer resource for public access within the time limit specified in the direction.

Provided that in case the request of the Nodal Officer is not approved by the Secretary, Department of Information Technology, the Designated Officer shall convey the same to such Nodal Officer.

9. Blocking of information in cases of emergency.— (1) Notwithstanding anything contained in rules 7 and 8, the Designated Officer, in any case of emergency nature, for which no delay is acceptable, shall examine the request and printed sample information and consider whether the request is within the scope of sub-section(1) of section 69A of the Act and it is necessary or expedient and justifiable to block such information or part thereof and submit the request with specific recommendations in writing to Secretary, Department of Information Technology.

(2) In a case of emergency nature, the Secretary, Department of Information Technology may, if he is satisfied that it is necessary or expedient and justifiable for blocking for public access of any information or part thereof through any computer resource and after recording reasons in writing, as an interim measure issue such directions as he may consider necessary to such identified or identifiable persons or intermediary in control of such computer resource hosting such information or part thereof without giving him an opportunity of hearing.

(3) The Designated Officer, at the earliest but not later than forty-eight hours of issue of direction under sub-rule (2), shall bring the request before the committee referred to in rule 7 for its consideration and recommendation.

(4) On receipt of recommendations of committee, Secretary, Department of Information Technology, shall pass the final order as regard to approval of such request and in case the request for blocking is not approved by the Secretary, Department of Information Technology in his final order, the interim direction issued under sub-rule (2) shall be revoked and the person or intermediary in control of such information shall be accordingly directed to unblock the information for public access.

10. Process of order of court for blocking of information.— In case of an order from a competent court in India for blocking of any information or part thereof generated, transmitted, received, stored or hosted in a computer resource, the Designated Officer shall, immediately on receipt of certified copy of the court order, submit it to the Secretary, Department of Information Technology and initiate action as directed by the court.

11. Expeditious disposal of request.— The request received from the Nodal Officer shall be decided expeditiously which in no case shall be more than seven working days from the date of receipt of the request.

12. Action for non-compliance of direction by intermediary.— In case the intermediary fails to comply with the direction issued to him under rule 9, the Designated Officer shall, with the prior approval of the Secretary, Department of Information Technology, initiate appropriate action as may be required to comply with the provisions of sub-section (3) of section 69A of the Act.

13. Intermediary to designate one person to receive and handle directions.— (1) Every intermediary shall designate at least one person to receive and handle the directions for blocking of access by the public any information generated, transmitted, received, stored or hosted in any computer resource under these rules.

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(2) The designated person of the Intermediary shall acknowledge receipt of the directions to the Designated Officer within two hours on receipt of the direction through acknowledgement letter or fax or e-mail signed with electronic signature.

14. Meeting of Review Committee.— The Review Committee shall meet at least once in two months and record its findings whether the directions issued under these rules are in accordance with the provisions of sub-section (1) of section 69A of the Act and if is of the opinion that the directions are not in accordance with the provisions referred to above, it may set aside the directions and issue order for unblocking of said information generated, transmitted, received, stored or hosted in a computer resource for public access.

15. Maintenance of records by Designated Officer.— The Designated Officer shall maintain complete record of the request received and action taken thereof, in electronic database and also in register of the cases of blocking for public access of the information generated, transmitted, received, stored or hosted in a computer resource.

16. Requests and complaints to be confidential.— Strict confidentiality shall be maintained regarding all the requests and complaints received and actions taken thereof.

FORM
[See rule 6(2)]

A. Complaint

1. Name of the complainant : _____
(Person who has sent the complaint to the Ministry/Department/State Govt./Nodal Officer)

2. Address : _____

City : _____ Pin Code : _____

3. Telephone : _____ (prefix STD code) 4. Fax (if any) : _____

5. Mobile (if any) : _____

6. Email (if any) : _____

B : Details of website/ computer resource/intermediary/ offending information hosted on the website
(Please give details wherever known)

7. URL / web address : _____

8. IP Address : _____

9. Hyperlink : _____

10. Server/Proxy Server address : _____

11. Name of the Intermediary : _____

12. URL of the Intermediary : _____

(Please attach screenshot/printout of the offending information)

13. Address or location of intermediary in case the intermediary is telecom service provider, network service provider, internet service provider, web-hosting service provider and cyber café or other form of intermediary for which information under points (7), (8), (9), (10), (11) and (12) are not available.

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[Signature]

C. Details of Request for blocking14 Recommendation/Comments of the Ministry/State Govt : _____

_____15. The level at which the comments/ recommendation have been approved
(Please specify designation) _____

16. Have the complaint been examined in Ministry/State Government : Y/N

17. If yes, under which of the following reasons it falls (please tick):

- (i) Interest of sovereignty or integrity of India
 (ii) Defence of India
 (iii) Security of the State
 (iv) Friendly relations with foreign States
 (v) Public order
 (vi) For preventing incitement to the commission of any cognisable offence relating to above

D. Details of the Nodal Officer, forwarding the complaint alongwith recommendation of the Ministry/State Govt. and related enclosures

18. Name of the Nodal Officer: _____

19. Designation : _____

20. Organisation : _____

21. Address : _____

City : _____ Pin Code: _____

22. Telephone: _____ (prefix STD code) 23. Fax (if any): _____

24. Mobile (if any): _____

25. Email (if any): _____

E. Any other information :F. Enclosures : 1.
2.
3.

Date :

Place:

Signature

[No. 9(18)/2004-EC]
N. RAVI SHANKER, Jt. Secy.

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ANNEXURE P/5

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 3125/2021 & CM APPL.9491/2021

FOUNDATION FOR INDEPENDENT JOURNALISM & ORS.

..... Petitioners

Through: Ms. Nitya Ramakrishnan Sr. Adv.
with Mr. Prasanna S., Mr. Ashwath
Sitaraman & Ms. Vinoothna Vinjam,
Advvs.

versus

UNION OF INDIA & ANR.

..... Respondents

Through: Mr. Chetan Sharma, ASG with
Mr. Kirtiman Singh, CGSC, Mr. Amit Gupta,
Mr. Akshay Gadeock, Mr. Vinay Yadav,
Mr. Sahaj Garg & Mr. R.V. Prabhat, Advvs. for
UOI.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

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09.03.2021

Proceedings in the matter have been conducted through video conferencing.

Issue notice upon respondents.

Mr. Kirtiman Singh, learned Standing Counsel accepts notice on behalf of both the respondents.

Learned Standing Counsel seeks time to seek instructions and to file counter affidavit.

W.P.(C) 3125/2021

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Page 1 of 2

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... 272

Time as prayed for is granted.

Let counter affidavit be filed by the respondents before the next date of hearing.

List on 16.04.2021.

CHIEF JUSTICE

JASMEET SINGH, J

MARCH 9, 2021

kks

INDIA
Forbes

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W.P.(C) 3125/2021

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Page 2 of 2

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

THE HONOURABLE SMT. JUSTICE P.V.ASHA

Wednesday, the 10th day of March 2021/19th Phalguna, 1942

WP(C) No.6272/2021(H)

PETITIONERS

1.LIVE LAW MEDIA PRIVATE LIMITED,3RD FLOOR, 41/3197, D-2
BHAGHEERATHA RESIDENCY, BANERJEE ROAD, COCHIN, ERNAKULAM,
KERALA-682 018, REPRESENTED BY ITS DIRECTOR, M.A. RASHID.

2.M.A. RASHID, ~~AGED 45 YEARS, COCHIN, LATE M. ARGOBAKER, AS IN~~

3.MANU SEBASTIAN, ~~AGED 45 YEARS, COCHIN, LATE M. ARGOBAKER, AS IN~~

RESPONDENTS

1.UNION OF INDIA, REPRESENTED BY SECRETARY TO GOVERNMENT,
MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY,
ELECTRONICS NIKETAN, 6 CGO COMPLEX, PRAGATI VIHAR, LODHI
ROAD, NEW DELHI-110 003.

2.MINISTRY OF INFORMATION AND BROADCASTING REPRESENTED
BY THE SECRETARY, A-WING, SHASTRI BHAVAN, NEW DELHI-110 001

Writ Petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to

1) Injunct respondent Nos. 1 and 2 and their authorised officers from enforcing Part II and Part III of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021;

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OR IN THE ALTERNATIVE

2) Restrain Respondent Nos. 1 and 2 from taking any coercive steps against the petitioner No.1 or its employees, directors, shareholders, or any persons who contribute articles to Petitioner No.1 for publication for failure to comply with the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021;

OR IN THE ALTERNATIVE

3) Restrain Respondent Nos. 1 and 2 from enforcing any provisions of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 till the constitution and designation of the authorities required to implement the provisions of the said Rules and till an effective and adequate and effective grievance redressal mechanism and appellate remedy is provided to entities such as petitioner No.1 to challenge orders passed under the said impugned Rules.

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S SANTHOSH MATHEW, DIVYA SARA GEORGE, JAISY ELZA JOE, KARTHIKA MARIA, ANIL SEBASTIAN PULICKEL, ARUN THOMAS, JENNIS STEPHEN, VIJAY V. PAUL, Advocates for the petitioners and of ASSISTANT SOLICITOR GENERAL OF INDIA for respondents (B/o), the court passed the following

ORDER

Admit.

Learned ASGI takes notice for the respondents.

The respondents shall not take any coercive action against the petitioners for non-compliance of the provisions contained in Part III of Exhibit P1 Rules, as the petitioners are the publishers of law reports and legal literature.

10-03-2021

Sd/-
P.V.ASHA,JUDGE

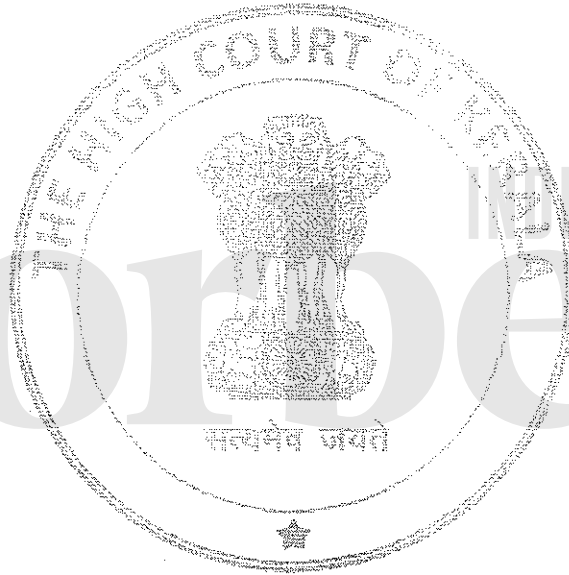
/true copy/

Sd/-

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ASSISTANT REGISTRAR

EXHIBIT P1: TRUE COPY OF THE INFORMATION TECHNOLOGY
(INTERMEDIARY GUIDELINES AND DIGITAL MEDIA ETHICS CODE) RULES,
2021.



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ANNEXURE 276/7

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 3659/2021 & CM APPL. 11097/2021

QUINT DIGITAL MEDIA LIMITED & ANR. Petitioners
Through Ms.Nitya Ramakrishnan, Mr.Prasanna
S, Ms. Vinoothna Vinjam, Advocates

versus

UNION OF INDIA & ANR. Respondents
Through Mr. Chetan Sharma, ASG with Mr.
Kirtiman Singh, CGSC, Mr. Amit
Gupta, Mr. Vinay Yadav, Mr. Akshay
Gadeock, Mr. Sahaj Garg,
Mr.R.Venkat Prabhat and Mr. Rohan
Anand, Advocates for Respondent
No.1/UOI

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

% **19.03.2021**

Issue notice upon respondents. Mr. Kirtiman Singh, learned CGSC accepts notice on behalf of respondent no.1.

Learned counsel for respondent no.1 seeks time to take instructions and to file reply.

Time as prayed for is granted.

Let the reply be filed before the next date of hearing.

Issue notice upon remaining respondents by ordinary process, returnable on 16.04.2021.

Signature valid

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By: PANKAJ KUMAR
Signing Date: 22.03.2021
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List this matter along with WP(C) No.3125/2021 on 16.04.2021.

CHIEF JUSTICE

JASMEET SINGH, J

MARCH 19, 2021/mw

INDIA
Forbes

Signature valid

Digitally Signed
By: PANKAJ KUMAR
Signing Date: 22.03.2021
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ANNEXURE P/8

... 278

No. DM/30/2021-DM
Government of India
Ministry of Information & Broadcasting
Digital Media Division

Shastri Bhawan, New Delhi
Dated: 10th June, 2021

To,

1. Digital news publishers
2. Publishers of online curated content (OTT platforms)
3. Associations of digital media publishers

Subject: Representations regarding implementation of IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021

Madam/Sir,

The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (hereinafter called Digital Media Rules, 2021) was notified by the Central Government on 25.02.2021. Part III of the Rules relating to Digital News Publishers and Online Curated Content Providers (OTT Platforms) are administered by the Ministry of Information and Broadcasting.

2. Since the notification of these Rules, several developments have taken place for its implementation, including communication sent to over 500 entities in March 2021 regarding the Rules and its compliance, interactions held in March 2021 by the Hon'ble Minister for Information and Broadcasting with digital news publishers and OTT platforms, issue of FAQs and various press releases relating to implementation of these Rules (all of which are placed on the Ministry's website), and conducting webinars with the various stakeholders. The formats for furnishing information by the eligible entities were also sent by email and placed on the Ministry's website on 26th May, 2021. More than 500 publishers have already submitted details in the requisite format. Reminders have been sent to the publishers who have not yet submitted the information. Further, several associations/organizations have informed the Ministry regarding setting up of self-regulating bodies which constitute Level II of the Grievance Redressal Mechanism under the Rules.

3. With regard to the implementation of the Rules, the Ministry has received representations from various associations/organizations. One category of the representations received is that the digital arm of the traditional media entities (Print and TV) be excluded/exempted from the applicability of the Rules. In this regard, various arguments have been advanced, including the following:-

- i. The news organizations have the same or common newsroom for the Print, TV and Digital journalists and the content created by them is already subjected to

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several uniform set of guidelines/standards including the Norms of Journalistic Conduct framed by the Press Council of India (PCI), the Programme and Advertising Codes under the Cable Television Networks (Regulation) Act, 1995 and the Rules framed there under;

- ii. The newspaper websites follow self-regulation guidelines of a newspaper as the website is an extension of the newspaper in all respects except for the time scale of frequency of publication, and the newspapers follow stringent self-regulation guidelines and strictly adhere to the Norms of Journalistic Conduct of the Press Council of India.
- iii. The electronic news media is no different from print media and majority of the content posted on the digital platforms is already a part of the TV broadcast, which is subject to government regulations.
- iv. The digital platforms while hosting news feed on OTT platforms are being burdened to adhere and comply with the self-regulatory/oversight mechanism which are resulting in discouraging these platforms from hosting digital news feed of the TV news broadcasters; further the OTT platforms believe that by hosting the news feed of the TV news broadcasters on their platforms, they may be made liable for the content carried under the Digital Media Rules, 2021. Hence, there is a threat to the news feed from being removed from the OTT platforms.

4. The aforementioned representations have been examined in the Ministry in the light of the Digital Media Rules, 2021, the existing statutes, mainly the Cable Television Networks (Regulation) Act, 1995, the Press and Registration of Books Act, 1867, the Press Council Act, 1978, the Programme Code under the Cable Television Network Rules, 1994, Norms of Journalistic Conduct under the Press Council Act, the Uplinking & Downlinking Guidelines of 2011 for private TV channels, etc. In the light of these it is contended as under:-

(i) The Code of Ethics laid down under the Digital Media Rules, 2021 provide that the digital news publishers shall adhere to the codes which has three elements -- (a) the Programme Code under the Cable Television Networks (Regulation) Act; (b) the Norms of Journalistic Conduct under the Press Council Act; and (c) that content which is prohibited under any law for the time being in force be not published. The traditional media publishers (TV and Print) are already regulated by these norms. Accordingly, extending these norms to the digital news platforms of the organizations which are in the business of traditional news (TV and Print) is no new or additional compliance.

(ii) While the Press Council Act covers newspapers (including replica e-version of a newspaper), the news portals/websites (.coms, .ins, etc.) are not covered under that Act. Content also differs across the traditional and digital platforms. Accordingly, news portals/websites even of the organizations having traditional newspapers will be covered under the said Rules.

(iii) Similarly, with regard to traditional TV news entities, while content appearing on a traditional TV channel is covered under the content regulations framed under the Cable Television Networks (Regulation) Act (Programme Code, etc) read along with the Uplinking and Downlinking Guidelines for private TV channels (2011), the digital news portals/websites of these traditional TV organizations are not covered under that Act/Guidelines. Further, the content may be different between the traditional and digital platforms. As a case in point, in a recent decision, the News Broadcasters Standards Authority (NBSA) held that a news which appears only on the website (.com/.in) of an organization but not its traditional TV platform would be outside the scope of its jurisdiction.

(iv) While newspapers are regulated by RNI under the Press & Registration of Books Act, 1867 and satellite TV channels are granted permission under the Uplinking and Downlinking Guidelines, 2011, the digital news portals/websites are not covered under these laws/guidelines.

5. Having regard to the above, the rationale for including the digital news portals/websites of the organizations having traditional news platforms under the ambit of the Digital Media Rules, 2021 is well reasoned. Making any exception of the nature proposed will be discriminatory to the digital news publishers who do not have a traditional TV/print platform. As already mentioned, since the Code of Ethics requires such digital platforms to follow the existing norms/content regulations which are in vogue for the traditional print and TV media, there is no additional regulatory burden for such entities. Accordingly, the request for exempting the digital news content of such organizations from the ambit of the Digital Media Rules, 2021, cannot be acceded to.

6. However, the Ministry does recognize that entities having traditional TV and print media are already registered/enrolled with the Government of India either under the Press and Registration of Books Act (by the Registrar of Newspapers for India) or under the Uplinking and Downlinking Guidelines of 2011 of Ministry of Information and Broadcasting. Accordingly, while notifying the forms for furnishing information by the digital news publishers, a distinction has been made between organizations having traditional news media and other digital news publishers, and for the former, the information sought is bare minimum. As claimed by the aforementioned entities, the digital version/digital publication of the organizations having traditional news platforms (TV and Print) may be following internal guidelines of the self-regulating bodies. Accordingly, if the organizations so desire, they can request the same self-regulatory bodies to serve as the Level II of the self-regulatory mechanism, after ensuring consistency with the Digital Media Rules, 2021.

7. An apprehension has been raised relating to perceived reluctance of OTT platforms in hosting news feed of digital news publishers on their platform on the pretext that the content contained therein would be the regulatory responsibility of the hosting OTT platform under the Digital Media Rules, 2021. In this regard two points need to be clarified. First and foremost

"online curated content" is defined under clause (q) of rule 2 of the Digital Media Rules, 2021 which specifically excludes "news and current affairs content". When any news and current affairs content of a digital news publisher is transmitted on an OTT platform, such content would be outside the regulatory responsibility of that platform. However, if any OTT platform receives a grievance related to such news and current affairs content, it may transfer the same to the concerned publisher of that content. Accordingly, there should not be any apprehension on this count either to the digital news publishers or to the OTT platforms.

8. The second set of representations received by the Ministry are regarding certain concerns relating to increased compliance burden on publishers, excessive Governmental control by way of emergency powers (under Rule 16), the oversight mechanism (under Rule 13) through the Inter-Departmental Committee, and the prescription relating to the composition of the self-regulating body and its registration by the Government.

9. At the outset, it may be mentioned that the Rules have been framed under the Information Technology Act, 2000, taking into account the various legal aspects and are consistent with the provisions of the Act. On the issue of increased compliance burden due to the stipulation of a 3-Tier regulatory mechanism, it may be mentioned that Level I requires a simple mechanism for a digital publisher to redress the grievances relating to the Code of Ethics within a certain time frame. This is considered appropriate from the view point of providing a forum for citizens who may have certain grievances relating to Code of Ethics. However, the publisher can at its level decide whether or not such grievance is in fact a violation of Code of Ethics and convey the same to the complainant. It may also be made clear that rules explicitly mention that only grievances on content relating to Code of Ethics (and not of any other nature) need be addressed. On the issue of excessive compliance burden for attending to a large number of grievances within a timeframe of 15 days especially for the small and medium size publishes, till date the Government has not received any representation from any particular digital news publisher citing the exact number of grievances received by it relating to the Code of Ethics and the difficulty faced by it in the redressal of grievances. In case such a representation is brought before the Ministry, the matter would be considered appropriately.

10. With regard to Level II viz. the self-regulatory mechanism provided for in the Digital Media Rules 2021, already the traditional TV media organizations have formed various associations to adjudicate grievances relating to violation of Programme Code under the Cable Television Network Act, 1995 and their internal codes/guidelines. Hence there is a prevalent system of self-regulation for the traditional news platforms. The requirement of the Level II under the Digital Media Rules, 2021 is only an extension of an existing institutional practice. Further, the composition of the self-regulating body would be decided entirely by the publishers and the Government has no role to play. The requirement of registration of such bodies with the Government is only to ensure that the composition is in accordance with the Rules and the body undertakes to perform the functions laid down under the Rules. It is neither stipulated nor intended for the Government to either interfere or obstruct the formation of the self-regulating body including its composition.

11. With regard to the Oversight Mechanism and the role of the Central Government, some concerns have been expressed including excessive Government control through this level over the functioning of the digital news publishers and OTT platforms. In this regard it may be mentioned that even at present, in respect of traditional TV channels, there is an oversight mechanism in the Government by way of an Inter-Ministerial Committee (IMC) which looks at certain grievances relating to the violation of the Programme Code, a mechanism which is in existence since 2005. Over the last over 15 years, the IMC has given recommendations by way of Advisories, Warnings, etc in respect of a large number of cases involving content of both news and non-news channels in relation to the Programme Codes and in almost every such case, the TV channels have accepted the recommendations of this Committee. The IMC mechanism has stood the test of time. The concept of Inter Departmental Committee (IDC) is similar. It may be mentioned that the Inter-Departmental Committee (IDC) under the Rules would consist of, apart from representatives from various Departments, persons with domain expertise from other organizations also. Further, Level III is visualized as a residual level, insofar as the grievances which do not get redressed at the first and second levels would go to the IDC. Accordingly, the apprehension of excessive Governmental control through these mechanisms is misplaced.

12. On the issue of the Government having emergency powers under Rule 16 of the Digital Media Rules, this matter has already been clarified by this Ministry's communication dated 27.02.2021 (copy placed on the Ministry's website) wherein it has been mentioned that such a provision already existed since 2009 under the Information Technology Act, 2000.

13. In the overall context, the Digital Media Rules, 2021 may be complied with by the digital news publishers and OTT platforms without any misapprehensions. The publishers may furnish the requisite information in the prescribed format immediately, take urgent steps for appointing a Grievance Officer (if not already done) and place all relevant details on public domain, and constitute self-regulatory bodies through mutual consultation so that the grievances are addressed at the level of publishers (or their self-regulating bodies) themselves.

14. This issues with the approval of the competent authority.

Yours faithfully,



10/06/2021

(Kshitij Aggarwal)
Assistant Director (DM)

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... 283
ANNEXURE P/9

W.P.No.13055 of 2021

THE HON'BLE CHIEF JUSTICE
and
SENTHILKUMAR RAMAMOORTHY, J.

(Made by the Hon'ble Chief Justice)

The first petitioner is an association of several of the leading media companies in the country representing both the print and the television media. The challenge here is to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.

2. There is an earlier petition, W.P.No.12515 of 2021, which has been filed in this regard. Tag the present petition with W.P.No.12515 of 2021.

3. Issue notice to the respondents. A copy of the petition should be forwarded to the office of learned Additional Solicitor-General. The respondents should file their counter-affidavits within a fortnight from date. The matter will appear three weeks hence.

4. The petitioners seek an interim order restraining the operation of Rules 12, 14 and 16 of the said Rules of 2021 and submit that there

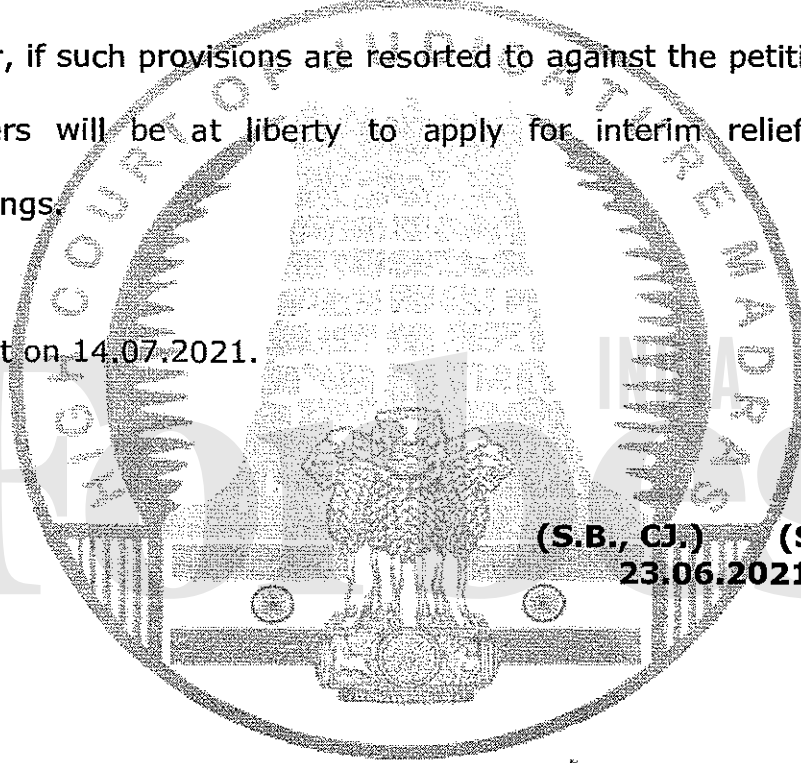
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is sufficient basis for the petitioners' apprehension that coercive and arm twisting action may be taken under such provisions.

5. Since no adverse action has been initiated against the petitioners as of now, no omnibus order is made at this stage. However, if such provisions are resorted to against the petitioners, the petitioners will be at liberty to apply for interim relief in these proceedings.

List on 14.07.2021.

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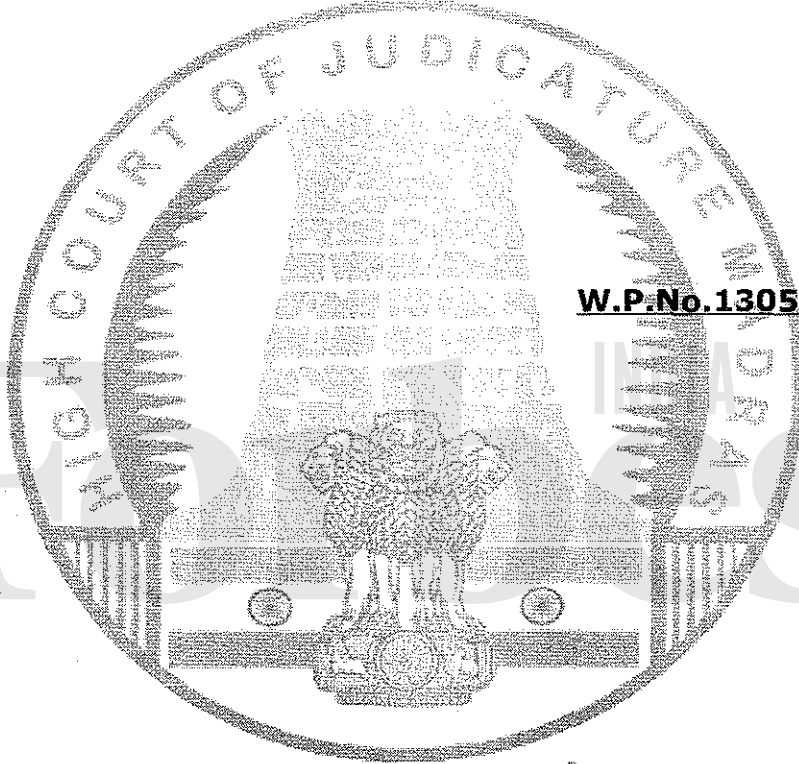


(S.B., C.J.) (S.K.R., J.)
23.06.2021

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THE HON'BLE CHIEF JUSTICE
and
SENTHILKUMAR RAMAMOORTHY, J.



W.P.No.13055 of 2021

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23.06.2021

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IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRA ORDINARY CIVIL WRIT JURISDICTION

CM NO. /2021

IN
WRIT PETITION (CIVIL) NO. OF 2021

IN THE MATTER OF:

Press Trust of India

... Petitioner

Versus

Union of India & Anr.

...Respondents

**APPLICATION UNDER SECTION 151 CPC, 1908 ON BEHALF
OF THE PETITIONER/APPLICANT FOR STAY**

TO
THE HON'BLE THE CHIEF JUSTICE OF
HIGH COURT OF DELHI AT NEW DELHI
AND HIS COMPANION JUDGES OF THE
HON'BLE HIGH COURT OF DELHI

THE HUMBLE PETITION OF THE PETITIONER
ABOVE NAMED

MOST RESPECTFULLY SHOWETH:

1. The accompanying Writ Petition challenges the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 201 ("IT Rules, 2021" or "Impugned Rules") as being ultra vires the Information Technology Act, 2000 ("Parent

Act”), in as much as they seek to regulate publishers of news and current affairs content under Part III of the Rules (“Impugned Part”) and impose Government oversight and a Code of Ethics over them, thereby going beyond the object and scope of the parent Act as well as being ultra vires Articles 19(1)(a), 19(1)(g), 14 and 21 of the Constitution.

2. The IT Rules, 2021 have been notified and published in the Official Gazette on 25th February, 2021 and have come into effect from that date and vide clarification dated 10.06.2021, the Respondents have rejected the representations and have directed immediate compliance.
3. The instant application seeks an ad interim stay of the ‘IMPUGNED RULES’ for the reasons mentioned in the petition.
4. It is submitted that the prima facie case is made out in the petition.
5. In the event the stay is not granted the Petitioner and other similarly placed Publishers of news and current affairs and digital media shall become subject to the new legal regime which requires compliance with the number of things including Constitution and Registration of a regulatory body.

6. This in addition to the grave and irreparable harm that will be caused by the direct oversight and regulation of the news media and its content by the Government. For instance, in the event of possible non-compliance by the Petitioner shall result in coercive measures under Section 45 of the IT Act and Section 188 of the IPC.
7. These may be difficult to be undone even if the Petitioner eventually succeeds. Therefore, a clear balance of convenience rests with the Petitioner and in favour of granting the interim relief prayed herein.
8. That the present application is being made bonafide and in the interest of justice.

PRAYER

It is most respectfully prayed that this Hon'ble Court may be pleased to:

- a) GRANT ad interim stay on the operation of Part III of the of the information technology (intermediary guidelines & digital media ethics code) Rules, 2021 as against the Petitioner;

- b) Pass any other order as may be deemed fit in the facts and circumstances of the case.

AND FOR THIS ACT OF KINDNESS THE PETITIONER AS IN DUTY BOUND SHALL EVER PRAY.

Mr. Wasim Beg
PETITIONER



Through

Swarnendu Chatterjee

Wasim Beg/Swarnendu Chatterjee
L&L Partners
Law Offices-Litigation
Advocates for the Petitioner
103, Ashoka Estate, Barakhamba Road,
New Delhi-110001

Email:

Mobi:



Place: New Delhi

Date: 02/07/2021

IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRA ORDINARY CIVIL WRIT JURISDICTION

CM No. OF 2021

IN

WRIT PETITION (CIVIL) NO. OF 2021

IN THE MATTER OF:

Press Trust of India

... Petitioner

Versus

Union of India & Anr.

... Respondents

AFFIDAVIT

I, M.R. Mishra

being

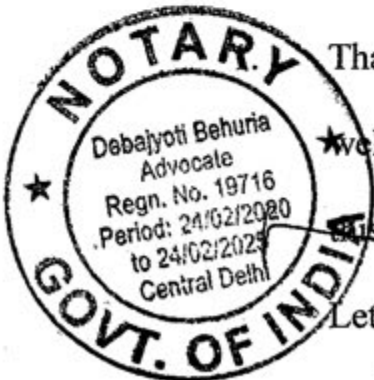
the Chief Administrative Officer of the Press Trust of India Ltd., having its registered and Head office at PTI Building 4, Parliament Street, New Delhi- 110 001, above named do hereby solemnly affirm and declare as under:

That I am the Petitioner in the above noted case and as such I am

well conversant with the facts of the case and competent to swear

in this Affidavit. I stand authorized to swear upon this Affidavit vide

Letter of Authorisation dated 30.06.2021.



- 2. That I have read and understood the contents of the accompanying application which has been drafted by my counsel under my instructions.

- 3. That, I state that the contents of Application herein are true to my knowledge and belief and no part of it is false and nothing material has been concealed therefrom.

M. Mishra

DEPONENT

VERIFICATION

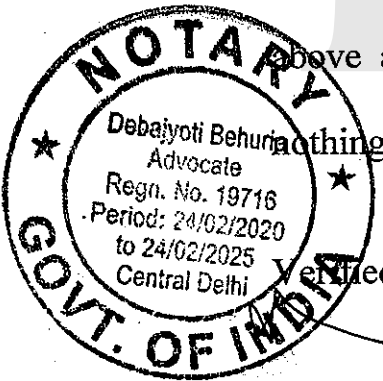
I, deponent the above named do hereby verify that the contents of the above affidavit are true to my knowledge, no part of it is false and nothing has been concealed there from.

02 JUL 2021

Verified at New Delhi on this day of July, 2021.

M. Mishra

DEPONENT



S. Arun Kumar Chatterjee
 I identified the deponent who has signed in my presence.

CERTIFIED THAT THE DEPONENT
 Shri/Smt./Km.....*M. Mishra*
 S/o, W/o R/o.....*Mr. Sridhar Mishra*
 Identified by Shri/Smt.....*S. Chatterjee*
 Has solemnly affirmed before me at
 Gathi Oh.....as St. No.....
 That the contents of the affidavit which
 have been read & explained to him/her
 are true & correct to his/her knowledge

02 JUL 2021 NOTARY

IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRA ORDINARY CIVIL WRIT JURISDICTION

C.M. No. /2021

IN

WRIT PETITION (CIVIL) NO. OF 2021

IN THE MATTER OF:

Press Trust of India

....Petitioner

Versus

Union of India & Anr.

...Respondents

APPLICATION UNDER SECTION 151 CPC, 1908 FOR EXEMPTION
FROM FILING CERTIFIED COPIES OF ANNEXURES,
DOCUMENTS AND ORDERS

TO
THE HON'BLE THE CHIEF JUSTICE OF DELHI
AT NEW DELHI AND HIS COMPANION JUDGES
OF THE HON'BLE HIGH COURT OF DELHI
AT NEW DELHI

THE HUMBLE PETITION OF THE PETITIONER ABOVE NAMED

MOST RESPECTFULLY SHOWETH:

1. The accompanying Writ Petition challenges the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 201 ("IT Rules, 2021" or "Impugned Rules") as being ultra vires the Information Technology Act, 2000 ("Parent Act"), in as much as they seek to regulate publishers of news and

current affairs content under Part III of the Rules ("Impugned Part") and impose Government oversight and a Code of Ethics over them, thereby going beyond the object and scope of the parent Act as well as being ultra vires Articles 19(1)(a), 19(1)(g), 14 and 21 of the Constitution.

2. That the contents of the accompanying Writ Petition may kindly be read as part and parcel of the present application and the same are not being repeated herein for the sake of brevity and convenience.
3. That due to paucity of time the Petitioner is seeking exemption from filing certified copies of annexures, documents and orders, the same will be placed on record as and when the same is made available to the Petitioners.
4. That the present application is being made bonafide and in the interest of justice.

PRAYER

It is most respectfully prayed that this Hon'ble Court may be pleased to:

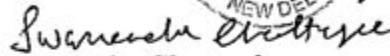
- a. Exempt the Applicant from filing certified/dim copies of the annexures/orders alongwith the present Application.

- b. Pass any other order as may be deemed fit in the facts and circumstances of the case.



PETITIONER

Through



Wasim Beg/Swarnendu Chatterjee

L&L Partners

Law Offices-Litigation

Advocates for the Petitioner

103, Ashoka Estate, Barakhamba Road,
New Delhi-110001

Email:

Mobi:

Place: New Delhi

Date: 02/02/2021

FORDES

IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRA ORDINARY CIVIL WRIT JURISDICTION

C.M. No. /2021

IN

WRIT PETITION (CIVIL) NO. OF 2021

IN THE MATTER OF:

Press Trust of India

... Petitioner

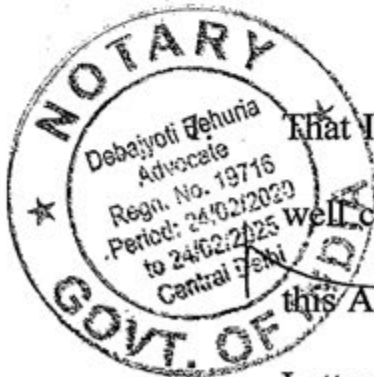
Versus

Union of India & Anr.

... Respondents

AFFIDAVIT

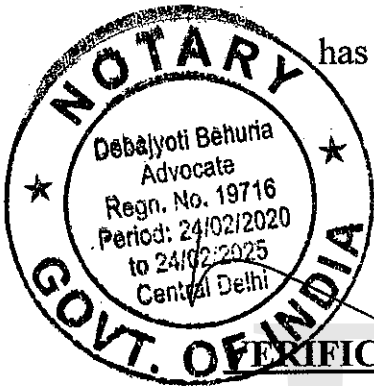
I, M.R. Mishra [REDACTED] being
the Chief Administrative Officer of the Press Trust of India Ltd., having
its registered and Head office at PTI Building 4, Parliament Street, New
Delhi- 110 001, above named do hereby solemnly affirm and declare as
under:



That I am the Petitioner in the above noted case and as such I am
well conversant with the facts of the case and competent to swear
this Affidavit. I stand authorized to swear upon this Affidavit vide
Letter of Authorisation dated 30.06.2021.

2. That I have read and understood the contents of the accompanying application which has been drafted by my counsel under my instructions.

3. That, I state that the contents of Application herein are true to my knowledge and belief and no part of it is false and nothing material has been concealed therefrom.



MR Mishra

DEPONENT

I, deponent the above named do hereby verify that the contents of the above affidavit are true to my knowledge, no part of it is false and nothing has been concealed there from.

2 JUL 2021

Verified at New Delhi on this day of July, 2021.

Swaraj Chatterjee

MR Mishra

DEPONENT

Identified the deponent who has signed in my presence.

CERTIFIED THAT THE DEPONENT
Shri/Smt./Km.....
No. W/o R/o.....
Identified by Shri/Smt.....
Hgs solemnly affirmed before me at
Delhi on.....
That the contents of the affidavit which
have been read & explained to him/her
are true & correct to his/her knowledge

2 JUL 2021

NOTARY

IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRA ORDINARY CIVIL WRIT JURISDICTION

C.M. No. /2021

IN

WRIT PETITION (CIVIL) NO. OF 2021

IN THE MATTER OF:

Press Trust of India

... Petitioner

Versus

Union of India & Anr

.... Respondents

APPLICATION UNDER SECTION 151 CPC, 1908 ON BEHALF
OF THE APPLICANT SEEKING PERMISSION FOR FILING
LENGTHY LIST OF DATES AND SYNOPSIS

TO
THE HON'BLE THE CHIEF JUSTICE OF DELHI
AT NEW DELHI AND HIS COMPANION JUDGES
OF THE HON'BLE HIGH COURT OF DELHI
AT NEW DELHI

THE HUMBLE PETITION OF THE PETITIONER ABOVE NAMED

MOST RESPECTFULLY SHOWETH:

1. The Petitioner is filing the instant writ petition under Article 226 and 227 of the Constitution of India in the nature of mandamus challenging the constitutionality and substantive vires of the Information Technology (Intermediary Guidelines and Digital

Media Ethics Code) Rules, 2021 (“IT Rules, 2021” or “Impugned Rules”) in so far as the said Rules purport to apply to publishers of news and current affairs and, consequently, regulate them by Part III (“Impugned Part”) of the same, on the grounds that the Impugned Rules violate Articles 14, 19(1)(a), and 19(1)(g) of the Constitution, and go far beyond the ambit of the Information Technology Act, 2000 (“IT Act”).

2. That the contents of the accompanying Writ Petition may kindly be read as part and parcel of the present application and the same are not being repeated herein for the sake of brevity and convenience.
3. That due to the mandate of the matter and the substantial question of law involved in the present writ petition, the Applicant seeks permission to file lengthy list of dates and synopsis in the instant the writ petition.
4. That the present application is being made bonafide and in the interest of justice.

PRAYER:

It is most respectfully prayed that this Hon’ble Court may be pleased to:

- a. Allow the Petitioner/Applicant to file lengthy list of dates and synopsis.

- b. Pass any other orders or directions as this Hon'ble court may deem fit and proper in the facts and circumstances of the case and in the interests of justice.

Mansha



RETENTIONER

Through

Swarnendu Chatterjee

Wasim Beg/Swarnendu Chatterjee

L&L Partners

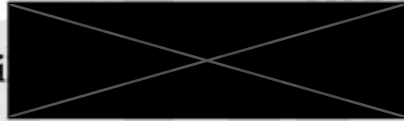
Law Offices-Litigation

Advocates for the Petitioner

103, Ashoka Estate, Barakhamba Road,
New Delhi-110001

Email:

Mobi



Place: New Delhi

Date: *02/07/2021*

IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRA ORDINARY CIVIL WRIT JURISDICTION

C.M. No. /2021

IN

WRIT PETITION (CIVIL) NO. OF 2021

IN THE MATTER OF:

Press Trust of India LimitedPetitioner

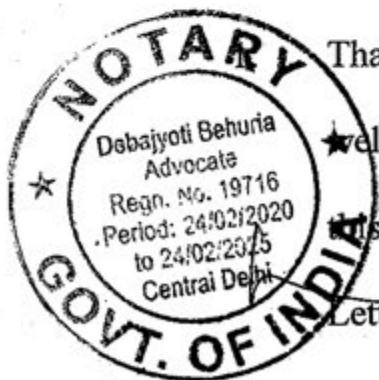
Versus

Union of India & Anr. ...Respondents

AFFIDAVIT

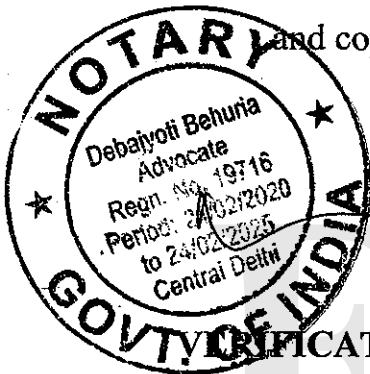
I, M.R. Mishra [REDACTED] being
the Chief Administrative Officer of the Press Trust of India Ltd., having
its registered and Head office at PTI Building 4, Parliament Street, New
Delhi- 110 001, above named do hereby solemnly affirm and declare as
under:

That I am the Petitioner in the above noted case and as such I am
well conversant with the facts of the case and competent to swear
this Affidavit. I stand authorized to swear upon this Affidavit vide
Letter of Authorisation dated 30.06.2021.



2. That I have read and understood the contents of the accompanying application which has been drafted by my counsel under my instructions. I state that the contents of Application herein are true to my knowledge and belief and no part of it is false and nothing material has been concealed therefrom.

3. I say that the Annexures filed along with the Application are true and copies of their respective Originals.



NR Mishra
DEPONENT

VERIFICATION:

I, deponent the above named do hereby verify that the contents of the above affidavit are true to my knowledge, no part of it is false and nothing has been concealed there from.

02 JUL 2021

Verified at New Delhi on this _____ day of _____, 2021.

Susman Chatterjee
I identified the deponent who has signed in my presence.

NR Mishra
DEPONENT

CERTIFIED THAT THE DEPONENT
Shri/Smt./Km.....
S/o, W/o R/o.....
Identified by Shri/Smt.....
Has solemnly affirmed at
Delhi on..... as of.....
That the contents of the affidavit which
have been read & explained to him/her
are true & correct to his/her knowledge

02 JUL 2021

[Signature]
NOTARY

No.ADMN/96/2021

June 30, 2021

TO WHOMSOEVER IT MAY CONCERN

I, Vijay Joshi, the Editor-in-Chief of the Press Trust of India Ltd. (PTI), having its registered office at 4, Parliament Street, New Delhi-110 001, do hereby authorise Mr. M.R. Mishra, Chief Administrative Officer of PTI, to engage/appoint pleader/counsel, sign Vakalatnama, sign and verify the pleadings/replies/applications, swear affidavits, give evidence and take all the steps required for the purpose, on behalf of PTI, vide a petition challenging the Information Technology (Intermediary Guidelines And Digital Media Ethics Code) Rules, 2021 before the Delhi High Court / Supreme Court of India.

Signature of Mr. M.R. Mishra is attested hereinbelow.

M.R. Mishra

[M.R. Mishra]

Attested

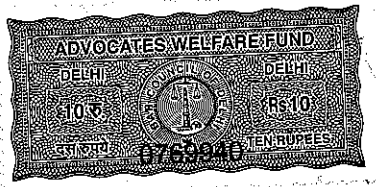
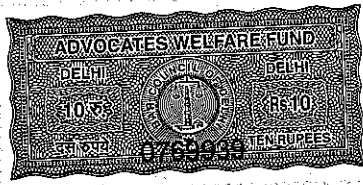
Vijay Joshi

[Vijay Joshi]

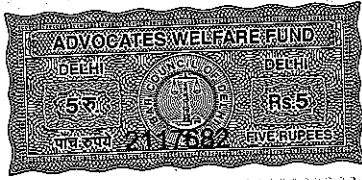


Vijay Joshi
Vijay Joshi
Editor-in-Chief & CEO

True copy



303



VAKALATNAMA

IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRA ORDINARY CIVIL WRIT JURISDICTION
WRIT PETITION (CIVIL) NO. OF 2021

IN THE MATTER OF:

Press Trust of India

... Petitioner

Versus

Union of India & Anr

... Respondents

KNOW ALL to whom these present shall come that I, **M.R. Mishra**, Chief Administrative Officer of the above named **Petitioner**, do hereby appoint:

Vijay K. Sondhi, Wasim Beg & Swarnendu Chatterjee
L & L Partners
Law Offices-Litigation
103, Ashoka Estate Barakhamba Road, New Delhi – 110 001
Ph. 011-41215100

(herein after called the advocate/s) to be my /our Advocate in the above- noted case authorise him
To send notices and representations on our behalf.

To act, appear and plead in the above- noted case in this Court or in any other Court in which the same may be tried or heard and also in the appellate Court including High Court subject to payment of fees separately for each court by me/us.

To sign, file, verify and present pleadings, appeals cross-objections or petitions for executions review revision, withdrawal, compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages subjects to payment to fees for each stage.

To file and take back documents, to admit and /or deny the documents of opposite Party.

To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case.

To take execution proceedings.

To deposit, draw and receive money, cheques, cash and grant receipts here of and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.

To appoint and instruct any other Legal Practitioner authorising him to exercise the power and authority hereby conferred upon the Advocate whenever he may think fit to do so and to sign. the power of attorney on our behalf.

And I/we undersigned do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all intents and purposes.

And I/we undertake that I/we or my/ our duly authorised agent would appear in Court on all hearings and will inform the Advocate for appearance when the case is called.

And I/we undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whenever ordered by the Court shall be of the Advocate which he shall receive and retain for himself

And I/we the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/ us to be paid to the advocate remaining unpaid he shall be entitled to withdraw from the prosecution or the said case until the same is paid up. The fee settled is only for the above case and above Court. I/we hereby agree that once the fees is paid I/we will not be entitled for the refund of the same in any case whatsoever and if the case prolongs for more them 3 years the original fee shall be paid again by me/us.

IN WITNESS WHERE/OF I/we do hereunto set my / our hand to these presents the contents of which have been understood by me/us on this 2nd day of July, 2021.

Accepted subject to the terms of the fees.

Advocate

Swarnendu Chatterjee




M. M. Mehta
Client

Identified Signatures
Swarnendu Chatterjee


305

Krishnanand Thakur

From: Krishnanand Thakur
Sent: Friday, July 02, 2021 3:39 PM
To: [REDACTED]
Subject: WP(C). /2021 Press Trust of India v/s UOI & Anr For Service
Attachments: PTI vs UOI- Frsh Writ.pdf

To,
Mr.Mohd.Muqem
Respondent No No 1 & 2

Email: [REDACTED]
Mob: [REDACTED]

Dear Sir/Madam,

We write to you under the instructions and on behalf of " Press Trust of India "petitioner in the captioned petition.

Please find attached the scanned copy of the petition being served upon you as and by way of advance service.

Please note that the aforesaid Petition is likely to be listed for hearing on 07.07.2021.

Kindly acknowledge the receipt of this email.

Regards,

Swarnendu Chatterjee
Counsel for the Petitioner

INDIA
Forbes



Krishnanand Thakur | Senior Court Clerk

M [REDACTED]
E [REDACTED]

T +91 11 4121 5100

[REDACTED]

Formerly Luthra & Luthra Law Offices

1st & 9th Floors, Ashoka Estate, Barakhamba Road,
New Delhi 110 001 India
www.luthra.com

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