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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Judgment reserved on: 07.04.2026***
Judgment pronounced on: 29.05.2026
Judgment re-uploaded on: 08.07.2026

+ W.P.(C) 7982/2013, CM APPL. 18654/2015 and CM APPL. 300/2016
9X MEDIA PVT. LTD. & ORS .....Petitioners
Through:

versus

TELECOM REGULATORY AUTHORITY OF INDIA
.....Respondent
Through:

+ W.P.(C) 7983/2013
B4U BROADBAND (INDIA) PVT. LTD. & ORS
.....Petitioners
Through:

versus

TELECOM REGULATORY AUTHORITY OF INDIA
.....Respondent
Through:

+ W.P.(C) 7984/2013

TV VISION LIMITED & ORS

.....Petitioner
Through:

versus

TELECOM REGULATORY AUTHORITY OF INDIA
.....Respondent
Through:

+ W.P.(C) 7985/2013
SUN TV NETWORKS LIMITED .....Petitioner
Through:

versus

TELECOM REGULATORY AUTHORITY OF INDIA
.....Respondent
Through:

+ W.P.(C) 7987/2013
E 24 GLAMORU LIMITED .....Petitioner
Through:

versus

TELECOM REGULATORY AUTHORITY OF INDIA
.....Respondent
Through:

+ W.P.(C) 7988/2013
PIONEER CHANNEL FACTORY PVT. LTD .....Petitioner
Through:

versus

TELECOM REGULATORY AUTHORITY OF INDIA
.....Respondent
Through:

+ W.P.(C) 7989/2013, CM APPL. 4541/2014 and CM APPL. 74139/2025
M/S NEWS BRADCASTER ASSOCIATION & ORS
.....Petitioners
Through:

versus

TELECOM REGULATORY AUTHORITY OF INDIA
.....Respondent
Through:

+ W.P.(C) 1150/2014 and CM APPL. 2408/2014
M/S. MAA TELEVISION NETWORK LIMITED .....Petitioner
Through:

versus

TELECOM REGULATORY AUTHORITY OF INDIA
.....Respondent
Through:

\+ W.P.(C) 276/2014 and CM APPL. 5897/2014
SARTHAK ENTERTAINMENT PVT. LTD. .....Petitioner
Through:

versus

TELECOM REGULATROY AUTHORITY OF INDIA
.....Respondent
Through:

\+ W.P.(C) 2944/2014
MEDIAWATCH - INDIA (A REGISTERED SOCIETY)
.....Petitioner
Through:

versus

TELECOM REGULATORY AUTHORITY OF INDIA (TRIA)
.....Respondent
Through:

\+ W.P.(C) 312/2014
KALAIGNAR TV PVT. LTD. .....Petitioner
Through:

versus

TELECOM REGULATORY AUTHORITY OF INDIA
.....Respondent
Through:

\+ W.P.(C) 3804/2014 and CM APPL. 7659/2014
M/S. NDTV LIFESTYLE LIMITED AND ANR.
.....Petitioners
Through:

versus

TELECOM REGULATORY AUTHORITY OF INDIA
.....Respondent
Through:

\+ W.P.(C) 544/2014
CELEBRITIES MANAGEMENT PVT LTD & ANR.
.....Petitioners
Through:

versus

TELECOM REGULATORY AUTHORITY OF INDIA
.....Respondent
Through:

\+ W.P.(C) 6602/2014
ODISHA TELEVISION LIMITED .....Petitioner
Through:

versus

TELECOM REGULATORY AUTHORITY OF INDIA
.....Respondent
Through:

\+ W.P.(C) 724/2014
EENADU TELEVISION PRIVATE LIMITED .....Petitioner
Through:

versus

TELECOM REGULATORY AUTHORITY OF INDIA AND ANR .....Respondents
Through:

\+ W.P.(C) 739/2014
RAJ TELEVISION PRIVATE LIMITED .....Petitioner
Through:

versus

TELECOM REGULATORY AUTHORITY OF INDIA & ANR .....Respondents

Through:

\+ W.P.(C) 4307/2021

NEWS BROADCASTERS ASSOCIATION ORS .....Petitioners

Through:

versus

UNION OF INDIA .....Respondent

Through:

Present for Petitioners:

Mr. Kunal Tandon, Senior Advocate with Ms. Aanchal Tandon, Ms. Niti Jain and Mr. Nitai Agarwal, Advs. in W.P.(C) 7982/2013, 7983/2013.

Mr. Abhinav Mukerji, Sr. Adv. with Ms. Payak Kakra, Mr. Akash Tyagi, Mr. Pranav, Ms. Khushboo, Advs. in W.P.(C) 7982/2013.

Ms. Aanchal Tandon, Ms. Niti Jain and Mr. Nitai Agarwal, Advs. in W.P.(C) 7984/2013.

Mr. Angad Singh Dugal, Mr. Govind Singh Grewal, Ms. Srishti Gupta, Mr. Jagtej Singh Kang, Mr. Pranav Chadha and Ms. Kanishka Singh, Advs. for the Petitioner in W.P.(C) 7985/2013.

Mr. Arvind P. Datar, Senior Advocate with Ms. Nisha Bhambhani, Mr. Rajat Arora, Mr. Rahul Unnikrishnan and Ms. Mariya Shahab, Advs. in W.P.(C) 7989/2013, 4307/2021.

Mr. Tribhuvan, Mr. Chandan, Mr. Manoj Kumar, Mr. Abhimanyu Asija and Ms. Anushka Sarraf, Advs. in W.P.(C) 6602/2014.

Mr. Rohan Dewan and Mr. Balaji Srinivasan, Advs. with Mr. Prabhat Ranjan, AR in W.P.(C) 724/2014.

Mr. Rajshekhar Rao, Senior Advocate with Mr. Harshil Wason, Mr. Maanav Kumar and Ms. Gauri Ramachandran, Advs. in W.P.(C) 739/2014.

Present for Respondents:

Mr. Chetan Sharma, ASG and Mr. Vikram Jetly, CGSC with

Ms. Laavanya Kaushik, Ms. Shreya Jetly, Mr. Shubham Sharma, Mr. Naman and Ms. Khyaati Bansal, Advs. for UOI in all Writ Petitions.
Mr. Ashish Mehta, Adv. for TRAI in all Writ Petitions.
Ms. Aanchal Tandon, Ms. Niti Jain and Mr. Nitai Agarwal, Advs. for the Intervenor – BCCI in W.P.(C) 7982/2013.
Mr. Abhishek Malhotra, Senior Advocate with Mr. Angad Singh Dugal, Mr. Govind Singh Grewal, Ms. Srishti Gupta, Mr. Jagtej Singh Kang, Mr. Pranav Chadha, Ms. Kanishka Singh, Mr. Kartikay Dutta and Ms. Anukriti Trivedi, Advs. in W.P.(C) 7982/2013, 7985/2013.
Ms. Anushree Rauta, Mr. Nittin Bhatia, Mr. Shwetank Tripathi, Ms. Devangini Rai, Advs. for Intervenor: Culver Max Entertainment Private Limited in W.P.(C) 7982/2013.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE AMIT MAHAJAN

J U D G M E N T

ANIL KSHETARPAL, J.:

1. The present batch of 17 Writ Petitions have been filed under Article 226 of the Constitution of India[1], by three group of Petitioners, namely, general entertainment channels (GECs), news broadcasters and regional channels. The aforestated channels, being major stakeholders have assailed Rule 7(11) of the Cable Television Network Rules, 1994[2] inserted by way of R. 452(E) dated 31.07.2006. Similarly, the constitutional validity of Regulation 3 of Standard of Quality of Service (Duration of Advertisements in Television Channels) Regulations, 2012[3], as amended by way of Standard of Quality of Service (Duration of Advertisements in Television Channels) (Amendments) Regulations, 2013[4], framed by the Telecom

[1] Hereinafter referred to as 'the Constitution'
[2] Hereinafter referred to as 'Impugned Rule'
[3] Hereinafter referred to as 'Impugned Regulation of 2012'
[4] Hereinafter referred to as 'Impugned Regulation of 2013'

Regulatory Authority of India (TRAI) in exercise of powers under Sections 11(1)(b)(i) and (v) read with Section 36 of Telecom Regulatory Authority of India Act, 1997[5], has also been challenged.

2. The common ground of challenge by the Petitioners pertains to the fixation of a time ceiling of 10+2 minutes per clock hour for broadcasting of advertisements, with a 10-minute cap fixed for commercial advertisements and a 2-minute cap pertaining to self-promotional advertisements. It is the case of the Petitioners herein that the aforesaid cap is violative of Articles 14 and 19 of the Constitution.

3. Before turning to the detailed background, followed by consideration of the rival submissions, we deem it appropriate to delineate, at the outset, that the primary challenge of the Petitioners is directed at the Impugned Regulation of 2012 as amended in 2013, which, as on date, constitutes the latest regulatory framework governing the permissible duration of advertisements on a 'per clock hour' basis. By virtue of the said Regulations, Impugned Rule, stands effected to the extent of the modifications so introduced. Pithily put, the core issue raised in the present proceedings does not pertain to the 12-minute ceiling on advertising time per se; rather, the Petitions are directed towards the stipulation that the said time ceiling is operational on a 'per clock hour' computation.

A. <u>BRIEF BACKGROUND AND REGULATORY FRAMEWORK:</u>

4. The regulatory framework governing broadcasting and cable television in India traces its origin to the enactment of the Cable

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[5] Hereinafter referred to as 'Act of 1997'

Television Networks (Regulation) Ordinance, 1994[6], which was followed by the Cable Television Networks (Regulation) Act, 1995[7]. The said statutory framework was complemented by the enactment of Rules of 1994, which were notified pursuant to the aforesaid Ordinance of 1994. Originally, the Telecom Regulatory Authority of India Act, 1997 stood confined to telecommunication services, however, a pivotal shift in the framework occurred by way of a subsequent notification dated 09.01.2004 bearing no.39 of 2004, whereby broadcasting and cable services were brought within the ambit of telecommunication services under Section 2(k) of the Act of 1997. Additionally, the regulatory reach of TRAI was expanded by empowering its recommendatory domain over matters such as duration of advertisements.

5. Further, the Cable TV framework came to be crystallised in the year 2006, with the introduction of the Impugned Rule, thereby prescribing a ceiling of upto 10+2 minutes of advertisements per hour for commercial advertisements and self-promotional programmes, respectively. Thereafter, this regulatory intent came to be refined through a consultative process, culminating in the promulgation of the Impugned Regulation of 2012, followed by an amendment by way of Impugned Regulation of 2013. The Impugned Regulations, when read conjointly for the purpose of the present petitions, lie at the heart of the dispute, as by way of Regulation 3, they prescribed a uniform 'per clock-hour' ceiling on advertisement duration, to ensure an uninterrupted and satisfactory viewing experience, thereby giving an operational effect to the Impugned Rule.

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[6] Hereinafter referred to as 'Ordinance of 1994'
[7] Hereinafter referred to as 'Act of 1995'

6. As is evident, the Impugned Regulations did not travel unchallenged. Primarily, the said Regulations became a subject matter for scrutiny of the Telecom Disputes Settlement and Appellate Tribunal (TDSAT). However, such proceedings were overtaken by a jurisdictional pronouncement of the Hon'ble Supreme Court in ***Bharat Sanchar Nigam Limited vs TRAI***[8], wherein, it was held that TDSAT does not possess the authority to adjudicate upon such challenges raised against the Impugned Regulations framed by TRAI. Accordingly, the appeals stood dismissed, though liberty was granted to approach the constitutional courts.

7. It is in this continuum that the present Petitions came to be instituted before this Court, wherein the Petitioners challenged Regulation 3 of the Impugned Regulations, whereas the Impugned Rule came to be challenged in the year 2014 by way of W.P.(C) 724/2014. In the interlude, Discovery Communications India entered the fray as an intervener. Against the aforesaid backdrop, the present dispute invites this Court to scrutinize the equilibrium between commercial speech of broadcasting channels and the power of TRAI to regulate advertisement duration, in the interest of viewers, by way of imposing a uniform per clock hour ceiling on advertisement duration.

8. At this stage, it may also be relevant to underscore that the expansion of definition of Telecommunication Service under the Act of 1997, to bring within its ambit broadcasting and cable services, brought an overlapping interplay between the Impugned Rule and the Act of 1997. Consequently, TRAI, in exercise of its powers under

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[8] (2014) 3 SCC 222

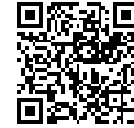
11(1)(b)(i) and (v), read with Section 36 of the Act of 1997, introduced a corresponding amendment by way of Impugned Regulation of 2012, as amended by Impugned Regulation of 2013.

9. Although, at first blush, the challenge before this Court may appear to be twofold. However, upon a closer scrutiny, it becomes apparent that, in substance, the challenges raised separately against the Impugned Rule and Regulation 3 of the Impugned Regulation of 2012, are directed towards one common object, namely, the imposition of a per clock hour ceiling on the advertisements. The said ceiling finds its substantive manifestation in Regulation 3 of the Impugned Regulation of 2012. Whereas, the Impugned Rule, when read in conjunction with the notification of the year 2004 operates in aid of, and derives content from, the Regulation 3. Consequently, the validity of the Impugned Rule is inextricably linked to, and dependent upon, the validity of Regulation 3 of the Impugned Regulation of 2012. Accordingly, for the purpose of adjudication, the controversy in the present batch rests upon the validity of Regulation 3 of the Impugned Regulation of 2012.

10. Before adverting towards the rival submissions made by the parties herein, this Court deems it appropriate to reproduce relevant provisions of the Act of 1995, Act of 1997, Impugned Rule and Regulations along with other statutes, which have been relied upon by the learned senior counsels for the parties during their submissions, which are as follows:

<u>Cable Television Networks (Regulation) Act, 1995-</u>

> ***2. Definitions-****In this Act, unless the context otherwise requires,-*
>
> *(g) "programme" means any television broadcast and includes—*



(i) exhibition of films, features, dramas, advertisements and serials;

(ii) any audio or visual or audio-visual live performance or presentation, and the expression "programming service" shall be construed accordingly;

***5. Programme code**.—No person shall transmit or re-transmit through a cable service any programme unless such programme is in conformity with the prescribed programme code.*

***6. Advertisement code**.—No person shall transmit or re-transmit through a cable service any advertisement unless such advertisement is in conformity with the prescribed advertisement code.*

Cable Television Networks Rules, 1994 (Impugned Rule)-

7. Advertising Code. –

(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.

TELECOM REGULATORY AUTHORITY OF INDIA ACT, 1997

***2. Definitions**.-(1) In this Act, unless the context otherwise requires,-*

(k) "telecommunication service" means service of any description (including electronic mail, voice mail, data services, audio tex services, video tex services, radio paging and cellular mobile telephone services) which is made available to users by means of any transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature, by wire, radio, visual or other electro-magnetic means but shall not include broadcasting services.

***11. Functions of Authority** - (1) Notwithstanding anything contained in the Indian Telegraph Act, 1885 (13 of 1885), the functions of the Authority shall be to—*

(a) make recommendations, either suo motu or on a request from the licensor, on the following matters, namely:-

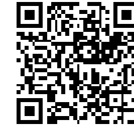
(i) need and timing for introduction of new service provider;

(ii) terms and conditions of licence to a service provider;

(iii) revocation of license for non-compliance of terms and conditions of licence;

(iv) measures to facilitate competition and promote efficiency in the operation of telecommunication services so as to facilitate growth in such services;

(v) technological improvements in the services provided by the



service providers;

(vi) type of equipment to be used by the service providers after inspection of equipment used in the network;

(vii) measures for the development of telecommunication technology and any other matter relatable to telecommunication industry in general;

(viii) efficient management of available spectrum;

(b) discharge the following functions, namely:--

(i) ensure compliance of terms and conditions of licence;

(ii) notwithstanding anything contained in the terms and conditions of the licence granted before the commencement of the Telecom Regulatory Authority of India (Amendment) Act, 2000 (2 of 2000), fix the terms and conditions of inter-connectivity between the service providers;

(iii) ensure technical compatibility and effective interconnection between different service providers;

(iv) regulate arrangement amongst service providers of sharing their revenue derived from providing telecommunication services;

(v) lay-down the standards of quality of service to be provided by the service providers and ensure the quality of service and conduct the periodical survey of such service provided by the service providers so as to protect interest of the consumers of telecommunication service;

(vi) lay-down and ensure the time period for providing local and long distance circuits of telecommunication between different service providers;

(vii) maintain register of inter-connect agreements and of all such other matters as may be provided in the regulations;

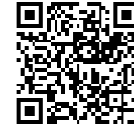
(viii) keep register maintained under clause (vii) open for inspection to any member of public on payment of such fee and compliance of such other requirement as may be provided in the regulations;

(ix) ensure effective compliance of universal service obligations;

36. Power to make regulations.-(1) The Authority may, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the times and places of meetings of the Authority and the procedure to be followed at such meetings under sub-section (1) of



section 8, including quorum necessary for the transaction of business;

(b) the transaction of business at the meetings of the Authority under sub-section (4) of section 8;

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(d) matters in respect of which register is to be maintained by the Authority [under sub-clause (vii) of clause (b)] of sub-section (1) of section 11;

(e) levy of fee and lay down such other requirements on fulfilment of which a copy of register may be obtained [under sub-clause (viii) of clause (b)] of sub-section (1) of section 11;

(f) levy of fees and other charges [under clause (c)] of sub-section (1) of section 11;

Standards of Quality of Service (Duration of Advertisements in Television Channels) Regulations, 2012 (Impugned Regulation of 2012)-

*" **3. Duration of advertisements in TV channels.**—(1) **No broadcaster shall carry in its broadcast of a programme, advertisements exceeding twelve minutes in a clock hour** and any shortfall of advertisement duration in any clock hour shall not be carried over.*

(2) The advertisements in the clock hour shall include all types of advertisements including advertisements promoting the channel(s) of the broadcaster.

Explanation: The clock hour shall commence from 00.00 of the hour and end at 00.60 of the hour (example: 14.00 to 15:00 hours)."

Standards of Quality of Service (Duration of Advertisements in Television Channels) (Amendment) Regulations, 2013 (Impugned Regulation of 2013)-

*"**2.** For regulation 3 of the Standards of Quality of Service (Duration of Advertisements in Television Channels) Regulations, 2012 (15 of 2012) (hereinafter referred to as the principal regulations), the following regulation shall be substituted, namely:-*

"3. Duration of advertisements in a clock hour.- No broadcaster shall, in its broadcast of a programme, carry advertisements exceeding twelve minutes in a clock hour.

Explanation: The clock hour means a period of sixty minutes commencing from 00.00 of an hour and ending at 00.60 of the hour. (example: 14.00 to 15:00 hours)."

Article 14 of the Constitution of India

__14. Equality before law.__—The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

Article 19 of the Constitution of India

19. Protection of certain rights regarding freedom of speech, etc.*—(1) All citizens shall have the right—*

(a) to freedom of speech and expression;

(g) to practise any profession, or to carry on any occupation, trade or business.

[(2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of 4 [the sovereignty and integrity of India], the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.]

(6) Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, 1 [nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to,—

(i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business; or

(ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.]

Article 31C of the Constitution of India

31C. Saving of laws giving effect to certain directive principles.— *Notwithstanding anything contained in article 13, no law giving effect to the policy of the State towards securing 4 [all or any of the principles laid down in Part IV] shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by 5 [article 14 or article 19;] 6 [and no law containing a declaration that it is for giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such policy]:*

Provided that where such law is made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent.]

Article 39 of the Constitution of India

39. Certain principles of policy to be followed by the State*.—The*

State shall, in particular, direct its policy towards securing—

> *(b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;*
>
> *(c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;*
>
> *(Emphasis Supplied)*

11. Since the Petitioners herein represent diverse categories of broadcasters, namely, GECs, news channels and regional channels, learned senior counsel for each category have advanced independent submissions. However, in view of the substantial overlap in issues, the same are being considered conjointly. For the sake of convenience, W.P.(C) 4307/2021 is treated as the lead matter for news broadcasters, W.P.(C) 739/2014 for regional broadcasters, and W.P.(C) 7983/2013 for GECs. The submissions advanced on behalf of Discovery Communications India, as an intervener in W.P.(C) 7982/2013, shall, also be dealt with separately.

B. <u>CONTENTIONS ON BEHALF OF THE PARTIES:</u>

12. This Court has heard learned senior counsel for the parties at length, and with their able assistance, have perused the paperbook alongwith the judgments and written submissions forming part of the pleadings.

13. At the threshold, it may be noted that although Mr. Chetan Sharma, learned ASG appearing on behalf of the Respondent/UOI, has assailed the maintainability of the present petitions in his written submissions, however, the said challenge was not raised before this Court at the time of oral arguments. Accordingly, this Court is consciously not dealing with the issue pertaining to the maintainability

of the petitions. Even otherwise, the present regulatory framework, by its very design, imposes an immediate obligation and has a direct bearing on the Petitioners herein, making the present petitions maintainable.

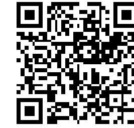
14. Before proceeding to examine the arguments on the merits of the case, we deem it appropriate to note that, as stated in preceeding paragraphs of this judgment, three distinct classes of broadcasters have been separately represented before this Court. Accordingly, the contentions of the Petitioners are considered and addressed in four corresponding segments, so as to ensure clarity, coherence, and category-specific adjudication. Similarly, the submissions advanced on behalf of the Union of India (UOI) and TRAI, as well as the rejoinder arguments advanced in response thereto, are also dealt with separately.

Submissions on behalf of News Broadcasters:

15. Mr. Arvind P. Datar, learned senior counsel appearing on behalf of News Broadcasters, has made the following submissions:

15.1 At the outset, it has been highlighted that in 2017, TRAI issued Interconnection Regulations and Tariff Order, imposing structured price caps on television channels, including a ceiling of Rs. 19 per channel and Rs. 12 for bouquet offerings, along with restrictions on bouquet composition, discounting, promotional schemes, and distribution arrangements. These regulations, however, came to be upheld by the Hon'ble Supreme Court in ***Star India (P) Ltd. v. Department of Industrial Policy and Promotion***[9]. It is their case that

[9] (2019) 2 SCC 104



the aforesaid regulation has already constrained the revenue streams of broadcaster, particularly news channels, whose subscription rates are substantially lower ranging between 25 paise to Rs. 3.5/- per month, with several operating on a Free-to-Air (FTA) model.

15.2 Against the aforesaid backdrop, it is the case of the News Broadcasters that, after the imposition of the price cap over subscription fee, the primary source of sustenance for channels alike is the advertising revenue. However, an additional imposition of uniform time ceiling of 12 minutes of advertisements per clock hour across all time slots aversely impacts the commercial speech guaranteed under Article 19(1)(a) of the Constitution.

15.3 Reliance is placed on the judgment of ***TATA Press Limited v Mahanagar Telephone Nigam Limited***[10], to argue that in the said judgment, the Hon'ble Supreme Court, while dealing with the issue of whether or not Telephone Nigam could restrain TATA Press from publishing yellow page containing paid advertisements of business, traders and association, held that commercial speech forms a part of freedom of speech and expression provided under Article 19(1)(a) of the Constitution, and advertisements cannot be denied protection merely because they are issued by the businessmen.

15.4 Further, it has been argued that the restriction on duration of advertisements by way of Impugned Rule is violative of Article 19(1)(a) of the Constitution, in light of the jurisprudence established by the Supreme Court in ***Sakal Papers (P) Ltd. And Others v The Union Of India***[11], ***Bennett Colemon & Co. v Union Of India***[12] and

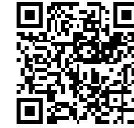
[10] (1995) 5 SCC 139
[11] AIR 1963 SC 305
[12] (1972) 2 SCC 788

Hindustan Times & Ors. vs. State of UP[13]. A common thread running through all the three decisions, as has been argued by the learned senior counsel, is that the Hon'ble Supreme Court has already settled the law that any restriction either direct or indirect, on advertisement space or revenue, forming the primary source of media funding, necessarily impacts the circulation and editorial freedom leading to an infringement of Article 19(1)(a) of the Constitution.

15.5 On the strength of the aforesaid authorities, it has been urged that if indirect impact on advertisement revenue is impermissible, a direct restriction under Impugned Rule is a fortiori violative of Article 19(1)(a) of the Constitution. Further, it is contended that, the Impugned Rule/Regulations alongwith the 2017 tariff and distribution controls, imposes a dual restriction on revenue streams, rendering it arbitrary under Articles 14 and 19(1)(a) of the Constitution. It has been emphasized that the principles applicable to print media apply with greater force to broadcasting, being a more potent medium of expression.

15.6 It has been urged by learned senior counsel that the Impugned Rule is violative of Article 14 of the Constitution on three grounds. *Firstly*, it fails to differentiate between prime time and non-prime time; *secondly*, it treats unequal entities as equals, thereby failing to recognise the disparities in revenue models between news channels and GEC/sports channels and between pay and FTA channels. *Thirdly*, it fails to distinguish between commercial advertisements, public service advertisements and self-promotional advertisements. Therefore, it has been contended that the uniform cap imposed is

[13] (2003) 1 SCC 591



unreasoned and lacks a valid classification leading to violation of Article 14 of the Constitution as held in ***Kunnathat Thathunni Moopil Nair Vs State of Kerala***[14].

15.7 While highlighting that the Impugned Rule is disproportionate, the reliance placed by the UOI on pricing regulations of foreign jurisdictions, is distinguished contending that the said data pertains to the year 2013 and the economic as well as regulatory conditions of foreign countries are not similar to that of India. By relying upon the judgments in ***Star India Pvt Limited Vs Telecom Regulatory Authority of India***[15] and ***Star India (P) Limited*** *(Supra)*, it has been submitted that, lower subscription charges enhance viewership and public access, especially for FTA and low-cost channels. However, sufficient advertisement time is essential to sustain affordability and ensure wider dissemination of television content.

<u>Submissions on behalf of GECs/Broadcasters:</u>

16. Mr. Kunal Tandon, learned senior counsel appearing on behalf of B4U Broadband (India) Pvt. Ltd., in addition to the arguments made by learned senior counsel for news broadcasters, has made the following submissions on the merits of the case:

16.1 An additional reliance has been placed on the judgment in ***Indian Express Newspaper (Bombay) Pvt. Ltd. v Union of India***[16], to argue that all commercial advertisements cannot be denied the protection under Article 19(1)(a) of the Constitution merely because the same is issued by a businessman.

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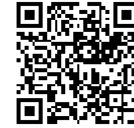
[14] (1961) 3 SCR 77
[15] (2007) SCC Online Del 951
[16] 1985 (1) SCC 641



16.2 Reference has been made to Section 2(g) of the Act of 1995, to argue that the definition of programme provided therein also includes advertisements, which form a part of content, as such the Impugned Rule and Regulations is violative of Article 19(1)(a) and (g) of the Constitution. It is urged that the restriction imposed by TRAI on the advertisement does not fall within either of the reasonable restrictions enshrined under Articles 19(2) and 19(6) of the Constitution.

16.3 Further reliance has been placed on ***Ministry of Information and Broadcasting, Govt. of India vs. Cricket Association of Bengal & Ors.***[17], to argue that merely because an organisation may profit from an activity whose character is predominantly covered under Article 19(1)(a) of the Constitution, it would not convert the activity into one involving Article 19(1)(g) of the Constitution.

16.4 Learned senior counsel has also argued that TRAI lacks the jurisdiction to regulate advertisements. In support of this contention, reference is made to its functions under Section 11(1)(b)(i) and (v) of the Act of 1997, to argue that such Regulations can only be brought by the UOI and not TRAI.

16.5 Reference is also made to Section 2(1)(k) of the Act of 1997, to argue that the role of TRAI is limited to technical and interconnection aspects, while content regulation, including advertisements, falls under the Programme and Advertisement Codes of Rules of 1994. It is his case that the broadcasting comprises of two distinct spheres, namely, the aspect of transmission, reception as well as dissemination of signals and the aspect of programming services, i.e. the content shown on channels.

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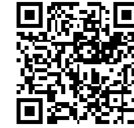
[17] 1995 (2) SCC 161



16.6 While dealing further with the aforesaid aspects, it has been argued that while the former falls within the domain of TRAI, the latter falls outside the scope of its regulatory jurisdiction, and as such Quality of Service (QoS) under Section 11(1)(b)(v) of the Act of 1997, cannot be expanded to include regulation of viewing experience or advertisement time.

Submissions on behalf of Regional Channels/Broadcaster:

17. Mr. Rajshekhar Rao, learned senior counsel appearing on behalf of Raj Television Pvt. Ltd., a regional channel of Tamil Nadu, in addition to the aforesaid averments, has made the following submissions on the merits of the case:

17.1 At the outset, it has been argued that with subscription revenue being negligible, the Petitioner, a regional broadcaster with a predominantly Tamil-speaking audience, derives the overwhelming part of its income from advertisements. Thus, any restriction on the duration of advertisements directly threatens its economic viability and continued existence as a broadcaster.

17.2 It is contended that the functions under Section 11(1)(a) of the Act of 1997, are purely recommendatory, either suo motu or on a request from the licensor (Ministry of Information and Broadcasting). It is urged that TRAI cannot use these to directly regulate or set binding norms regarding the duration and format of advertisements, nor can it convert a recommendatory function into a legislative power.

17.3 It has been argued that the impugned subordinate legislation is 'law' under Article 13 of the Constitution and as such is void as it infringes Article 19(1)(a) of the Constitution, as reiterated in

Madhyamam Broadcasting Limited v Union of India[18]. In addition to the aforesaid, it has been argued that the measures taken by TRAI fail the proportionality test as no reasonable restriction under Article 19(2) of the Constitution is clearly established.

17.4 Learned senior counsel also argued that the consultation process by TRAI is vitiated by non-transparency and non-application of mind. Despite stakeholder consultations, the final decision lacks reasoned justification for the 12-minute per clock-hour time ceiling and the rejection of objections by TRAIs. Reliance is placed on ***Cellular Operators Association of India v Telecom Regulatory Authority of India***[19], to contend that regulatory decisions must be reasoned, transparent, and responsive to stakeholder inputs, which requirement is argued to be not satisfied in the present case.

17.5 It is the case of regional channels that the Impugned Rule and Regulations fail constitutional scrutiny as they satisfy the well-settled tests evolved by the Courts for determining infringement of Article 19(1)(a) of the Constitution, namely the '*proximate effect / direct and inevitable consequence'* test, the '*direct effect and qualitative–quantitative impact*' test, and the doctrine of interference with essential attributes of free speech. Reliance has been placed on ***Kaushal Kishor v. State of Uttar Pradesh***[20]**,** to argue that the reasonable restrictions provided under Article 19(2) of the Constitution are exhaustive and there cannot be any additional restrictions other than already enumerated therein.

17.6 Firstly, applying the proximate effect or direct and inevitable

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[18] 2023 SCC OnLine SC 366
[19] (2016) 7 SCC 703
[20] (2023) 4 SCC

consequence test as laid down in ***Express Newspaper Pvt. Ltd. v Union of India***[21] and reiterated in ***Anuradha Bhasin v Union of India***[22], it is argued that where the inevitable and proximate consequence of a measure is curtailment of circulation, reach, or financial viability of a medium, such measure squarely falls within Article 19(1)(a) of the Constitution. It is their case that, the impugned actions of TRAI has direct and inevitable consequence on reduction of advertisement revenue, thereby leading to increase in subscription costs while simultaneously diminishing audience reach.

17.7 Secondly, reliance is placed on ***Bennett Coleman*** *(Supra)*, for application of direct effect as well as qualitative and quantitative test formulated therein. The Court in the said judgment held that freedom of the press is both qualitative and quantitative, encompassing not merely content but also circulation and economic capacity. It is contended that the impugned action by TRAI directly affects the revenue structure of broadcasters and thereby their capacity to produce and disseminate content, with freedom of speech being impaired in both its qualitative and quantitative dimensions.

17.8 Thirdly, reliance is placed on ***Sakal Papers*** *(Supra),* to submit that where a regulatory measure strikes at an essential attribute of the medium, such as circulation or advertisement space which sustains it, such Regulations constitute a direct infringement of Article 19(1)(a) of the Constitution. Against the aforestated, it is contended that the Impugned Rules 7(11), by restricting advertisement inventory, directly undermines the financial foundation of broadcasting and thus

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[21] 1959 SCR 12
[22] 2020 SCC OnLine SC 25

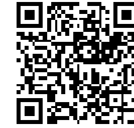
impermissibly interferes with an essential facet of expressive freedom.

18. Learned counsel appearing for the Intervener, Discovery Communications India, while emphasising its position as a producer of niche content, has broadly adopted the submissions already advanced by the Petitioners hereinabove. In view of such substantial overlap, the said contentions are not being reiterated for the sake of brevity but are expressly adopted for the purposes of adjudication as and when deemed necessary.

Response on behalf of UOI:

19. Mr. Chetan Sharma, learned ASG, while controverting the submissions made by the learned senior counsel for the Petitioners, has made the following submissions:

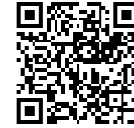
19.1 While substantiating the rationale for quantitative restriction of 12 minutes per clock hour on advertisements, it has been argued that Advertisement in commercial sense means to draw attention to goods for sale or services offered. Since the advertisement revenue is the major source of revenue by broadcasters, they deliberately lengthen the duration of commercial breaks, thereby reducing the quality of viewing experience. It has been argued that Impugned Rule 7(11) is the sole provision which regulates the advertising timing to enhance the quality of experience in accordance with International Telecommunication Union Telecommunication Standardization Sector, which defined quality of experience, as the overall acceptability of an application or service, as perceived by the end-user. Thus, the duration of advertisements introduced by Impugned Rule and Regulations, eradicates the adverse impact by enhancing the



quality of viewing experience of the consumers.

19.2 Reference has also been made to the regulations on advertisement duration imposed in several countries, a tabular format of the same has been provided hereinbelow:

S. No.	Country	Advertisement duration/hour
1.	Argentina	12 Minutes (10 Minutes: Commercial; 2 minutes In-Programme) SCA Law
2.	Croatia	12 Minutes (Article 32 of The Electronic Media Act)
3.	Canada	12 Minutes on FTA, while advertisement is totally prohibited on pay channels As per Competition Act
4.	France	Targeted advertising shall not exceed a daily average of 4 min/hr (Force of Decree n02020-983 of5 August 2020)
5.	Germany	12 Minutes with a minimum of 20 minutes of programming in between interruptions. The Unfair Competition Act (UWG)
6.	Ireland	12 Minutes 10 Min for children's programmes Broadcasting Authority of Ireland
7.	Italy	5 to 10 Minutes Audiovisual Media Services Code
8.	Norway	09 Minutes (15% per Hour) Norwegian Media Authority
9.	United Kingdom	7 minutes to 12 minutes I British broadcasting regulator Of com
10.	Indonesia	(12 Minutes) 20% per hour Indonesian Broadcasting Commission (KPI).
11.	Denmark	15 per cent of the individual licensee's daily broadcasting time, and a maximum of 12 minutes per hour. The Radio and Television Broadcasting Act



19.3 As a foundational objection, it has been argued that there exists no Fundamental Right (FR) guaranteed to the Petitioners under Article 19(1)(a) of the Constitution to establish, maintain or operate broadcasting services, nor do they possess any unfettered right to access or use airwaves, which constitute scarce public property. In this regard, reliance is placed on ***Secy, Ministry of Information & Broadcasting*** *(Supra)*, to argue that the Hon'ble Supreme Court in the said judgment, has held that although right to receive and impart information is protected under Article 19(1)(a) of the Constitution, the use of airwaves, being a public property and limited in nature, is inherent to the State regulation. Additionally, reference is also made to highlight that the Court in the aforesaid judgment also held that no individual has a vested right to utilise such resources at will, and that access thereto can only be regulated in accordance with law and in public interest.

19.4 Reliance is also placed on ***Association of Unified Tele Services Providers v. Union of India***[23] and ***Union of India v Assn of Unified Telecom Service Providers of India***[24], to argue that natural and material resources of the community fall within the ambit of Article 39(b) of the Constitution, and as such their distribution is subject to constitutional regulation in furtherance of the common good. Accordingly, it is argued that access to broadcasting through airwaves is a regulated privilege governed by statutory framework and constitutional policy, and not a FR enforceable under Article 19(1)(a) of the Constitution.

19.5 It has been argued that the plea taken by the Petitioner that the

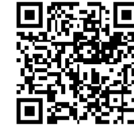
[23] 2014 6 SCC 110
[24] 2020 3 SCC 110

imposing of uniform cap of 12 minutes per clock hour will lead to revenue loss is misplaced. It has been stated that the Impugned Rule operates across all broadcasters without regulating the pricing of advertisement slots, which remain entirely market driven. In a competitive ecosystem, advertisement rates are determined by demand and viewership, and therefore the time cap does not ipso facto diminish revenue.

19.6 Additionally, it is contended that the broadcasters possess multiple revenue streams and the allegation of a revenue cap is factually erroneous. Reference is made to the Tariff Order of 2017 to argue that it does not impose any absolute price ceiling on channels; it only stipulated conditional requirements where bouquets are offered including pricing thresholds and composition norms. Further, it has been clarified that even within the said framework, broadcasters are free to price channels above the prescribed threshold when offered on *a-la-carte* basis.

19.7 Reliance is placed upon ***Star India (P) Ltd.*** *(Supra)*, to argue that the aforesaid position with respect to fixing of subscription fee as introduced by way of Regulation and Tariff Order of 2017 has been recognised by the Hon'ble Supreme Court. The Court retained complete freedom of broadcasters to fix subscription prices, particularly for *a-la-carte* offerings, while highlighting that the regulatory measures merely ensure a balance between consumer interest and fair competition.

19.8 Reliance placed by learned senior counsels for the Petitioners on the judgments of ***Sakal Papers*** *(Supra)*, ***Bennett Coleman*** *(Supra)*, ***Indian Express*** *(Supra)* and ***Hindustan Times*** *(Supra)*, has also been



distinguished by the learned ASG. In substance, it has been argued that the reliance placed on the aforesaid precedents concerning print media is wholly inconceivable, since there is no parity in facts or regulatory context. It has been contended that the print and electronic media operate in distinct domains, warranting different considerations. Drawing the attention of this Court to the distinct factual matrix of the cited precedents, it has been argued that the measures impugned therein directly curtailed core facets of free speech such as page limits, pricing, ownership and newsprint supply. In contrast, the present impugned framework imposes no restriction on broadcasting content, duration, reach or subscription pricing.

19.9 In view of the aforesaid, it is contended that the 12-minute ceiling on advertisements does not violate Article 19(1)(a) of the Constitution, since the broadcasters retain freedom to disseminate content for the remaining 48 minutes of every hour, as the restriction is confined solely to advertisement time without impinging the essential exercise of free speech.

19.10 It has been contended that the Petitioners' invocation of the doctrine of commercial speech and the asserted exhaustiveness of Article 19(2) of the Constitution is misplaced. It is well-settled that commercial speech does not enjoy absolute protection under Article 19(1)(a) of the Constitution. Reference is made to the judgment in ***Hamdard Dawakhana v. Union of India and Ors.***[25], to argue that the Hon'ble Supreme Court has excluded misleading and objectionable advertisements from constitutional protection, a principle subsequently followed in the judgment dated 07.02.2008 bearing ***W.P.***

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[25] AIR 1960 SC 554

(C) 18761 of 2005 titled ***Mahesh Bhatt v. Union of India***. Additionally, it is contended that the decision in ***Tata Press Ltd.*** *(Supra)* does not confer an unqualified right to advertise but recognises such speech as subject to reasonable regulation in public interest.

19.11 Reliance has also been placed on ***Kaushal Kishor*** *(Supra)* to argue that, the Supreme Court in the said judgment, while holding that restrictions under Article 19(2) of the Constitution are exhaustive, Ramasubramanian, J. was pleased to rely upon the judgments of ***Sahara India Real Estate Corp. Ltd. v. SEBI***[26] and ***Asha Ranjan v. State of Bihar***[27] to hold that the balancing of rights can always be done by the Court by applying the test of 'paramount collective interest.

19.12 Without prejudice, it is argued that the Impugned Rule and Regulations, would, in any event, satisfy the test of reasonableness under Article 19(2) of the Constitution. As recognised in ***Sahara India*** *(Supra)* and ***Dharam Dutt v. Union of India***[28], where the exercise of free speech intersects with competing public interests, calibrated and proportionate restraints may legitimately be imposed. In the present case, the time ceiling on advertisement duration advances viewer protection, preserves the quality of viewing experience, and ensures that airwaves subserve the larger public good rather than being driven solely by revenue considerations.

19.13 Additionally, learned ASG has also argued that the Impugned Rule is protected by Article 19(2) of the Constitution, as it ensures

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[26] (2012) 10 SCC 603
[27] 2017 4 SCC 397
[28] (2004) 1 SCC 712

balanced use of public resources and is justified in the interest of 'public order'. In this regard, reliance has been placed on ***Telecom Watchdog v Union of India***[29], wherein a legislative measure restricting unsolicited commercial communications was challenged and was inter alia sought to be justified on the ground of public order under Article 19(2) of the Constitution. This Court observed that in any event the State was fully within its powers to prevent the creation of public nuisance by unrestricted and unlimited commercial communications.

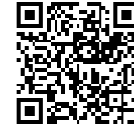
19.14 Lastly, a reference is made to the observations of the Hon'ble Supreme Court in ***A. Suresh & Ors. v. State of Tamil Nadu & Anr.***[30] to argue that the activity of the broadcaster to provide entertainment is a combination of two rights i.e. Speech and Business as referred to under Article 19(1)(a) and (g) of the Constitution, respectively. In this regard, the Court had also observed that where the freedom of speech gets intertwined with business it undergoes a fundamental change and its exercise has to be balanced against societal interests.

Submission on behalf of TRAI:

20. In addition to the arguments advanced by the learned ASG, Mr. Ashish Mehta, learned counsel appearing on behalf of TRAI has made the following submissions:

20.1 While distinguishing the effect of print media and broadcast media, it has been argued that television, unlike print media, operates in a time-bound format where viewers cannot avoid advertisements inserted mid-programme, including scrolls and overlays. Such

[29] 2012 OnLine Del 3601
[30] (1997) 1 SCC 319



distinction necessitated the regulatory intervention in the interest of viewers.

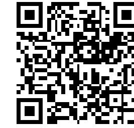
20.2 It has been argued that the Impugned Regulations effectuating the time ceiling for advertisement in the Impugned Rule, were introduced pursuant to widespread consumer complaints and in exercise of TRAI's statutory mandate under Sections 11 and 36 of the Act of 1997, to ensure compliance with license conditions and maintain QoS. Thus, the prescribed time ceiling directly addresses excessive commercial interruptions that degrade viewing experience.

Rejoinder on behalf of News Broadcasters:

21. Mr. Arvind P Datar, learned senior counsel, in his rejoinder, has contended that the reliance placed by the UOI on various judgments is misconceived, as none governs the issue of time ceiling of advertisement on broadcasting, thereby diluting the protection under Articles 14 and 19(1)(a) of the Constitution. In support of the aforesaid, following submissions have been made:

21.1 Reliance placed on ***Secy, Ministry of Information & Broadcasting*** *(Supra),* has been distinguished, while contending that the same concerns allocation and regulation of airwaves, not content-based advertisements caps or revenue regulation of broadcasters. It is argued that the said judgment itself confines restrictions to Article 19(2) of the Constitution and as such public interest cannot operate as an independent ground for curtailing speech beyond the provided text.

21.2 Reliance on ***Sahara India*** *(Supra)* has also been argued to be misplaced, on the ground that it dealt with postponement orders under contempt jurisdiction and does not support expansion of restrictions



on speech under a broad "public interest" standard.

21.3 ***Star India Private Limited*** *(Supra),* has been argued to be inapplicable as it concerned tariff Regulation in non-news channels and was decided in the absence of empirical evidence demonstrating adverse impact on broadcasters. Whereas, the present case involves news and FTA channels, where advertisement revenue constitutes the primary revenue stream, duly demonstrated by financial data.

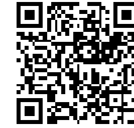
21.4 Lastly, it has been contended that the ***Telecom Watchdog*** *(Supra)* dealt with SMS spam regulation under telecom consumer protection frameworks, not broadcasting content regulation or advertisement caps; hence, it is irrelevant.

Rejoinder on behalf of Regional Channels/Broadcasters:

22. Mr. Rajshekhar Rao, learned senior counsel, in his rejoinder arguments, while highlighting that the Impugned Rule is unconstitutional, arbitrary and unsupported by evidence, has made the following submissions:

22.1 It is contended that the plea of public interest is misconceived, inasmuch as tariff Regulation and bouquet pricing already operate to safeguard consumer interest. A further quantitative cap on advertisement time constitutes duplicative and excessive regulation, imposing an unjustified fetter on commercial speech.

22.2 While distinguishing the reliance placed on ***Secy, Ministry of Information and Broadcasting*** *(Supra)*, it has been contended that while airwaves are public property, the Impugned Rule does not concern spectrum allocation but directly regulates content by capping



advertisement time.

C. ANALYSIS AND REASONING:

23. This Court has heard learned senior counsels appearing on behalf of the parties and, with their able assistance, has perused the paperbook along with the written submissions placed on record. Upon consideration of pleadings and submissions, two principal questions arise for the consideration of this Court, which are as follows:

I. Whether the introduction of Regulation 3 of the Impugned Regulation of 2012, fall within the statutory competence of TRAI?

II. Whether the time ceiling of 12 minutes per clock hour on advertisements is violative of protection under Articles 14 and 19 of the Constitution?

I. WHETHER THE INTRODUCTION OF REGULATION 3 OF THE IMPUGNED REGULATION OF 2012, FALL WITHIN THE STATUTORY COMPETENCE OF TRAI?

24. Section 11(1)(b)(v) of the Act of 1997 entrusts TRAI with the regulatory power to lay down the standards of QoS to be provided by the service providers, in order to protect the interest of consumers of telecommunication services. Whereas, Section 36 of the Act of 1997 enables TRAI to make regulations consistent with the Act and the rules made thereunder, in order to carry out the purposes of the Act.

25. In the aforesaid backdrop, the subsequent notification issued in 2004 assumes significant importance in shaping the scope and exercise of such regulatory powers. By virtue of the said notification, the Central Government expanded the definition of telecommunication service provided under Section 2(1)(k) of the Act

of 1997, to expressly include broadcasting as well as cable services. This enlargement of the definitional ambit effectively brought the aforestated sectors within the regulatory purview of TRAI, thereby enabling it to exercise its statutory powers and discharge its functions in relation to broadcasting and cable services.

26. Having delineated the power of TRAI to act as a regulatory body over broadcasting and cable services, we shall now proceed to examine whether TRAI has acted within its statutory power by introducing Impugned Regulation of 2012, to monitor the advertisement time as prescribed therein.

27. The Statement of Objects and Reasons of the Act of 1997, underlying the establishment of TRAI underscores that the Authority as an independent regulatory body is entrusted with the responsibility of acting as a watchdog for the telecommunications sector. Its mandate includes the protection and promotion of consumer interests, the facilitation of fair competition, and the progressive alignment of telecommunication services in India with globally accepted standards. The particular emphasis on transparency, accountability, and orderly sectoral growth further reinforces the breadth of TRAI's regulatory remit. The relevant excerpts are reproduced hereunder-

> *"In the context of the National Telecom Policy, 1994, which amongst other things, **stresses on achieving the universal service, bringing the quality of telecom services to world standards**, provisions of wide range of services to meet the customers' demand at reasonable price, and participation of the companies registered in India in the area of basic as well as value added telecom services **as also making arrangements for protection and promotion of consumer interest** and ensuring fair competition, there is a felt need to separate regulatory functions from service providing functions **which will be in keeping with the general trend in the world**. In the multi-operator situation arising out of opening of basic as well as value added*

services in which private operator will be competing with Government operators, there is a pressing need for an independent telecom regulatory body for regulation of telecom services for orderly and healthy growth of telecommunication infrastructure apart from protection of consumer interest."

4. The powers and functions of the Authority, inter alia, are—

(i) ensuring technical compatibility and effective inter-relationship between different service providers;

(ii) regulation of arrangement amongst service providers of sharing their revenue derived from providing telecommunication services;

(iii) ensuring compliance of licence conditions by all service providers;

(iv) ***protection of the interest of the consumers of telecommunication service****;*

(v) settlement of disputes between service providers;

(vi) fixation of rates for providing telecommunication service within India and outside India;

(vii) ensuring effective compliance of universal service obligations.

6. The Authority will have to maintain transparency while exercising its powers and functions. ***The powers and functions would enable the Authority to perform a role of watchdog for the telecom sector in an effective manner***.

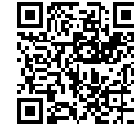
(Emphasis Supplied)

28. Similarly, the Preamble of Act of 1997 reinforces the aforestated position by expressly stipulating that the legislation seeks to regulate telecommunication services, adjudicate disputes, protect the interests of both service providers and consumers, while ensuring the orderly growth of the sector, which is as follows:

"An Act to provide for the establishment of the [2][Telecom Regulatory Authority of India and the Telecom Disputes Settlement and Appellate Tribunal to regulate the telecommunication services, adjudicate disputes, dispose of appeals and ***to protect the interests*** *of service providers and* ***consumers of the telecom sector****, to promote and ensure orderly growth of the telecom sector] and for matters connected therewith or incidental thereto."*

(Emphasis Supplied)

29. The Statement of Objects and Reasons, when read



harmoniously with the Preamble, clearly reflects the legislative intent underlying the establishment of the TRAI. It indicates that TRAI was constituted to discharge regulatory functions aimed at maintaining an equitable balance between the interests of consumers and service providers, while simultaneously ensuring that the quality and standards of telecommunication services progressively align with universally accepted benchmarks. To put it succinctly, the role of TRAI is not merely supervisory or administrative in nature, but substantively regulatory, with a clear consumer centric orientation.

30. The jurisdiction of TRAI to regulate the telecom sector also finds support in the judgment of the Supreme Court in ***Union of India v Association of Unified Telecom Service Provider of India***[31], wherein the Court while distinguishing between the functions of TRAI envisaged under Section 11 of the Act of 1997, highlighted that the powers exercised by TRAI under Section 11(1)(b), are not merely recommendatory in nature, rather is binding on the licensee. The relevant paragraph is reproduced hereunder:

> *"45. The scheme of the TRAI Act therefore is that TRAI being an expert body discharges recommendatory functions under clause (a) of sub-section (1) of Section 11 of the TRAI Act and discharges regulatory and other functions under clauses (b), (c) and (d) of sub-section (1) of Section 11 of the TRAI Act. TRAI being an expert body, the recommendations of TRAI under clause (a) of sub-section (1) of Section 11 of the TRAI Act have to be given due weightage by the Central Government but the recommendations of TRAI are not binding on the Central Government.* ***On the other hand, the regulatory and other functions under clauses (b), (c) and (d) of sub-section (1) of Section 11 of the TRAI Act have to be performed independent of the Central Government and are binding on the licensee subject to only appeal in accordance with the provisions of the TRAI Act.****"*

[31] (2020) 3 SCC 525

(Emphasis Supplied)

31. Turning now to the challenge raised pertaining to the imposition of 'per clock hour' regime under Impugned Regulation of 2012. It may be noticed that in a medium such as television, where content unfolds in real time and interruptions are inescapably experienced, the frequency, duration as well as density of advertisement breaks are integral to the quality of the viewing experience, thereby directly affecting the interests of consumers, who does not possess the power to skip or fast forward these advertisements. It is pertinent to highlight that excessive or uneven commercial intrusion is not merely an economic concern, rather it constitutes a direct impairment of the right of consumers to a fair and reasonable viewing experience.

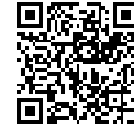
32. At this stage, we also deem it appropriate to briefly examine the origin and essence of the Impugned Rule. The Act of 1995 provides a clear and enabling statutory architecture for regulation of both programmes and advertisements. Section 2(g) of the Act of 1995, while defining the scope of a programme, expressly includes advertisements within its ambit. Additionally, Sections 5 and 6 of the Act of 1995, mandate conformity with the prescribed Programme Code and Advertisement Code, respectively. Accordingly, the simultaneous incorporation of Advertisement Code under Rule 7 of the Rule of 1994, stands firmly anchored within, and derives legitimacy from, the parent enactment.

33. The Impugned Rule, which prescribes a ceiling of 12 minutes per hour on advertisements, is a classic conceptualization of code-based normative standard that delineates the permissible quantum of advertisements within a defined temporal framework.

Learned senior counsels representing the Petitioners, while challenging the validity of the Impugned Rule, have failed to draw the attention of this Court to any statutory text suggesting that the Advertisement Code is confined merely to qualitative or content-based restrictions alone. On the contrary, a temporal limitation on the quantum of advertisements is inherent in the very logic of regulating advertising within a medium structured by time.

34. Coming back to the argument of the Petitioners pertaining to the power of TRAI to introduce the Impugned Regulation of 2012, it may be relevant to highlight that TRAI's statutory power to regulate the prescribed time for advertisements can be deduced from Section 11(1)(b)(v) of the Act of 1997, a bare reading of which makes it evident that TRAI while discharging its functions as envisaged in the said provision, is also provided with a responsibility to lay down the standards of QoS, which undisputedly, would also be inclusive of enhancement of quality of viewer's experience. Whereas, a perusal of Section 36 of the Act of 1997, would indicate that the TRAI, as a regulatory authority, is envisaged with the power to make Regulation and Rules, which shall serve the purpose of the Act of 1997. Thus, the Impugned Regulation of 2012 represent a legitimate exercise of delegate authority. It is the responsibility of TRAI to ensure that QoS is maintained by the broadcasters which includes viewer experience, once the viewers interest is to be kept in view, then the delicate balance between the interest of broadcasters and the consumers is to be maintained.

35. In view of the aforestated, the measure taken by TRAI to limit the advertisements to 12 minutes per clock hour, is in pursuance of the



recognised QoS objective of TRAI, aimed at reducing excessive commercial breaks and preventing the artificial clustering of advertisements, in order to ensure a more even and rational distribution of advertising load across broadcast time. The Impugned Regulation of 2012 serves to enhance the overall viewing experience while promoting regulatory uniformity across broadcasters.

36. Accordingly, it would be incorrect to state that the power of TRAI to regulate QoS is a narrow, technical or engineering-centric function as has been argued by learned senior counsels appearing for the Petitioners. On the contrary, it is a dynamic, evolving and living mandate, encompassing all facets that materially shape consumer experience. The regulation imposed by way of fixing an advertisement duration, in a time-bound broadcast medium is manifestly one such facet.

37. Therefore, in light of the aforesaid, the Impugned Regulation of 2012 cannot be stated to be excessive, they constitute a measured exercise of statutory power, harmonising, the legislative intent of the Act of 1995 with the consumer-centric regulatory framework provided under the Act of 1997, and as such the Impugned Regulation of 2012 falls well within the bounds of legislative competence of TRAI.

II. WHETHER THE TIME CEILING OF 12 MINUTES PER CLOCK HOUR ON ADVERTISEMENTS IS VIOLATIVE OF PROTECTION UNDER ARTICLES 14 AND 19 OF THE CONSTITUTION?

38. Since the present challenge raises a multi-layered question at the intersection of free speech, business rights, and regulation of a

public resource, we deem it appropriate to structure this part of analysis under the following four sub-issues:

a. Public character of spectrum and State's power to regulate the same;

b. Whether the rights of broadcasters argued under Article 14 and Article 19 of the Constitution subserve the benefit of public at large?

c. Judgments forming part of core contentions of the Petitioners are distinguishable;

d. Consultation, Transparency and Application of Mind by TRAI.

(a.) Public character of spectrum and State's power to regulate the same

39. At the outset, we deem it appropriate to briefly delineate the evolution and operational architecture of broadcasting and cable services in India, tracing their progression across technological paradigms.

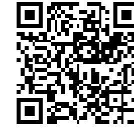
40. In its earliest form, television transmission was carried out through terrestrial broadcasting, wherein television stations disseminated signals using high-powered radio waves in the Very High Frequency (VHF) or Ultra High Frequency (UHF) bands, received by individual antennas, thereby constituting the traditional FTA method, marking the genesis of broadcast dissemination. The above-stated form of transmission was followed by the emergence of cable television networks, which marked a significant shift from over-the-air transmission to a guided physical delivery system. Under the said mode of transmission, signals were transmitted directly to television sets through wired infrastructure, typically coaxial or fibre-

optic cables, thereby enhancing signal quality and expanding the channels capacity as provided under the said network.

41. The next phase of transmission witnessed the emergence of satellite television systems, namely, Direct Broadcast Satellite (DBS) or Direct to Home (DTH), wherein signals were uplinked from a broadcast centre to geostationary satellites and thereafter downlinked back to earth for reception. This model enabled wide-area coverage, transcending geographical limitations and significantly expanding access. The most recent evolution in transmission is reflected in Internet Protocol Television (IPTV), wherein content is delivered through broadband or fibre-based internet networks, representing the convergence of broadcasting with digital communication technologies.

42. Notwithstanding the diversity in the modes of transmission, which has been evolving with the passage of time, a common and unifying thread binding all forms pertains to the reliance on airwaves and frequency for the dissemination of signals in each of the forms delineated hereinabove. Each of these systems, either directly or indirectly, rely upon the access to airwaves and frequency, which constitutes as a limited public property and shall be used in the best interest of the society. The aforestated position stands recognised by the Supreme Court in ***Secy., Ministry of Information & Broadcasting*** *(Supra)*, wherein it was held that airwaves are public property and their use must be regulated by a public authority in the interest of the public at large. The relevant excerpt of the said judgment is reproduced hereunder-

> *122. We, therefore, hold as follows:*



(i) ***<u>The airwaves or frequencies are a public property</u>****. Their use has to be controlled and regulated by a public authority in the interests of the public and to prevent the invasion of their rights.* ***<u>Since the electronic media involves the use of the airwaves, this factor creates an inbuilt restriction on its use as in the case of any other public property</u>****."*

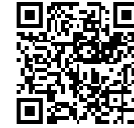
(Emphasis Supplied)

43. The aforestated position has further emerged clearly from the decision of the Supreme Court in ***Centre for Public Interest Litigation and Others v Union of India and Others***[32], wherein the Court while deliberating upon the definition of natural resources, held that Spectrum constitutes as a scarce, finite and renewable natural resource. The Court further highlighted that such resources vest in the people, with the State acting as a trustee, and that their allocation must conform to the principles of equality, transparency, and public interest, consistent with the mandate of Article 39(b) of the Constitution. The relevant paragraphs are reproduced hereunder:

"74. At the outset, we consider it proper to observe that even though there is no universally accepted definition of natural resources, they are generally understood as elements having intrinsic utility to mankind. They may be renewable or non-renewable. They are thought of as the individual elements of the natural environment that provide economic and social services to human society and are considered valuable in their relatively unmodified, natural form. A natural resource's value rests in the amount of the material available and the demand for it. The latter is determined by its usefulness to production. ***<u>Natural resources belong to the people but the State legally owns them on behalf of its people and from that point of view natural resources are considered as national assets, more so because the State benefits immensely from their value.</u>***

75. ***<u>The State is empowered to distribute natural resources. However, as they constitute public property/national asset, while distributing natural resources the State is bound to act in consonance with the principles of equality and public trust and ensure that no action is taken which may be detrimental to public interest. Like any other State action, constitutionalism must be reflected at every stage of the distribution of natural resources</u>***. ***<u>In Article 39(b) of the Constitution</u>***

[32] (2012) 3 SCC 1



it has been provided that the ownership and control of the material resources of the community should be so distributed so as thy best subserve the common good, but no comprehensive legislation has been enacted to generally define natural resources and a framework for their protection. Of course, environment laws enacted by Parliament and State Legislatures deal with specific natural resources i.e. forest, air, water, coastal zones, etc.

76 The ownership regime relating to natural resources can also be ascertained from international conventions and customary international law, common law and national constitutions. In international law, it rests upon the concept of sovereignty and seeks to respect the principle of permanent sovereignty (of peoples and nations) over (their) natural resources as asserted in the 17th Session of the United Nations General Assembly and then affirmed as a customary international norm by the International Court of Justice in the case of Democratic Republic of Congo v. Uganda. ***Common law recognises States as having the authority to protect natural resources insofar as the resources are within the interests of the general public. The State is deemed to have a proprietary interest in natural resources and must act as guardian and trustee in relation to the same. Constitutions across the world focus on establishing natural resources as owned by, and for the benefit of, the country. In most instances where constitutions specifically address ownership of natural resources, the sovereign State, or, as it is more commonly expressed, "the People", is designated as the owner of the natural resources.***

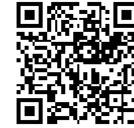
77. ***Spectrum has been internationally accepted as a scarce, finite and renewable natural resource which is susceptible to degradation in case of inefficient utilisation. It has a high economic value in the light of the demand for it on account of the tremendous growth in the telecom sector. Although it does not belong to a particular State, right of use has been granted to the States as per international norms."***

(Emphasis Supplied)

44. Further, the Supreme Court in its judgment in ***Property Owners Association & Ors. v State of Maharashtra & Ors.***[33], reiterated that the scarce and finite nature of resources like airwaves, thereby recognising the power of government to protect the same in interest of general public. The relevant excerpt is reproduced hereunder:

"223. ………….. ***However, as the community has a vital interest in the retention of the character of these resources, they fall within the***

[33] 2024 INSC 835



ambit of the expression "material resources of the community".

224. We may refer to the Public Trust Doctrine that has been evolved by this Court in a consistent line of precedent, to better understand the 'community' element of such resources. This doctrine provides that the State holds all natural resources as a trustee of the public and must deal with them in a manner consistent with the nature of the trust. *The doctrine was introduced to Indian jurisprudence by a two-judge bench decision of this Court in M.C. Mehta v. Kamal Nath.* ***This Court, speaking through Justice Kuldip Singh, held that the doctrine is rooted in the principle that certain resources like "air, sea, waters and forests" hold such importance to the people, as a whole, that it would be unjustified to make them a subject of private ownership. This Court held that the doctrine mandates the Government to protect the resources for the enjoyment of the general public, rather than to permit their use for commercial gains. Significantly, this does not mean that the state cannot distribute such resources, sometimes even to private entities, rather while distributing such resources, the state is bound to act in consonance with the principles of public trust so as to ensure that no action is taken which is detrimental to public interest.***

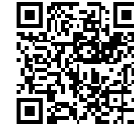
225. ***The Constitution Bench of this Court in Special Reference No. 1, adverted to above, had occasion to observe that the Public Trust Doctrine has expanded beyond resources like air, sea, water and forests, to include other resources such as spectrum which also have a community or public element. The Constitution Bench of this Court, relying on Article 39(b), held that no part of such resources can be dissipated as a matter of largess, charity, donation or endowment, for private exploitation. The considerations may be in the nature of the state earning revenue or to "best sub-serve the common good". The idea, this Court held, is that one set of private citizens cannot prosper at the cost of another set of private citizens, because such resources are owned by the community as a whole."***

(Emphasis Supplied)

45. Furthermore, the Supreme Court in 2026 by way its judgment in ***State Bank of India v Union of India & Ors.***[34], while dealing with spectrum in the context of insolvency summarised the earlier line of authorities. The relevant paragraphs are reproduced hereunder:

*"**13.1 The International Telecommunication Union (ITU), a specialised agency of the United Nations responsible for global telecommunications regulation, divides the world into three regions, each with specified frequency allocations. The ITU has allocated various spectrum bands to India for mobile telecommunications,***

[34] 2026 INSC 153



satellite-based services, and other applications such as broadcasting. The spectrum needs of our fastgrowing economy has been projected to be around 2000 MHz by 2030. This is said to be far below the needs of defense, telecommunications and other sectors. In CPIL (Supra), this Court explained spectrum as;

> ***"77. Spectrum has been internationally accepted as a scarce, finite and renewable natural resource which is susceptible to degradation in case of inefficient utilization. It has a high economic value in the light of the demand for it on account of the tremendous growth in the telecom sector. Although it does not belong to a particular State, right of use has been granted to the States as per international norms." 14. Beyond its technical description, spectrum has consistently been recognized as a public resource and it is precious also for the reason that it is finite and limited.***

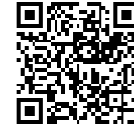
B. Concept of ownership over natural resources and its Constitutional Underpinnings:

15. Dealing with spectrum as a limited natural resource, this Court in CPIL Case (Supra) had the occasion to deal with ownership and control of the natural resource in the following terms;

> ***"74. …Natural resources belong to the people but the State legally owns them on behalf of its people and from that point of view natural resources are considered as national assets, more so because the State benefits immensely from their value.***
>
> ***75. The State is empowered to distribute natural resources. However, as they constitute public property/national asset while distributing natural resources the State is bound to act in consonance with the principles of equality and public trust and ensure that no action is taken which may be detrimental to public interest. Like any other State action, constitutionalism must be reflected at every stage of the distribution of natural resources…."***

16. Applying the doctrine of public trust, recognized in M. C. Mehta v. Kamal Nath this Court held that spectrum as a natural resource of the nation is administered by the Central Government as a Trustee. In a nuanced approach, this position was reaffirmed by the Constitution Bench in Natural Resources Allocation, In re (Supra) by holding that while the State may adopt different modalities of allocation, it cannot part with the natural resource when the policy of the State is not supported by social or welfare purpose.

> *"149. ...Alienation of natural resources is a policy decision, and the means adopted for the same are thus, executive prerogatives. However, when such a policy decision is not backed by a social or welfare purpose, and precious and scarce natural resources are alienated for commercial pursuits of profit maximising private entrepreneurs, adoption of means other than those that*



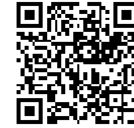
are competitive and maximise revenue may be arbitrary and face the wrath of Article 14 of the Constitution. Hence, rather than prescribing or proscribing a method, we believe, a judicial scrutiny of methods of disposal of natural resources should depend on the facts and circumstances of each case, in consonance with the principles which we have culled out above. Failing which, the Court, in exercise of power of judicial review, shall term the executive action as arbitrary, unfair, unreasonable and capricious due to its antimony with Article 14 of the Constitution."

17. The constitutional framework reinforces this understanding by mandating that the ownership and control of this material resource of the community be so distributed as best to subserve the common good. Constitution obligates the State to ensure that access to and use of such resource is regulated in a transparent, non-discriminatory manner, so that, its benefit enure to the benefit of the nation, rather than being treated as objects of private ownership or unfettered commercial exploitation*. This position is clear from the following passage in CPIL (Supra);*

> *"75. ...* ***while distributing natural resources the State is bound to act in consonance with the principles of equality and public trust and ensure that no action is taken which may be detrimental to public interest****. Like any other State action, constitutionalism must be reflected at every stage of the distribution of natural resources.* ***In Article 39(b) of the Constitution it has been provided that the ownership and control of the material resources of the community should be so distributed so as to best subserve the common good, but no comprehensive legislation has been enacted to generally define natural resources and a framework for their protection****...."*

(Emphasis Supplied)

46. The settled line of authorities establishes a well-settled constitutional position that spectrum and airwaves constitute scarce, finite public resources which vest in the people, and are held by the State in a fiduciary capacity as trustee. Consequently, their allocation and regulation must necessarily be informed by the foundational principles of public interest, equality, and transparency, as reinforced by the public trust doctrine. In furtherance of Article 39(b) of the Constitution, such resources are required to be distributed so as to best subserve the common good.

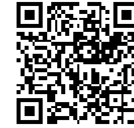


47. Accordingly, access to spectrum is neither inherent nor absolute; it is conditional, regulated, and circumscribed by statutory and constitutional limitations. The broadcasters cannot claim an unfettered right to exploit spectrum for commercial purposes. Their use of such resource is subject to licensing conditions, statutory frameworks, and regulatory oversight. The State, in discharge of its constitutional obligations, is fully competent to regulate the manner and extent of such usage in order to ensure that the public character of the resource is preserved and that its benefits accrue to the community at large.

(b) Whether the rights of broadcasters argued under Article 14 and Article 19 of the Constitution subserve the benefit of public at large?

48. Before dealing with the arguments raised by learned senior counsel for the Petitioners, with respect to Articles 14 and 19 of the Constitution, we deem it apposite to highlight the interplay between the State's duty to regulate natural resources and whether such duties envisaged by the Constitution automatically stands superseded by the principles enshrined under Articles 14 and 19 of the Constitution.

49. Article 39(b) forming part of Part IV of the Constitution under the Directive Principles of State Policy (DPSP), embodies a fundamental constitutional directive which guides and informs State policymaking. It delineates the constitutional obligation of the State to ensure that the ownership and control of material resources of the community are so distributed as to best subserve the common good. In essence, it mandates that the State, while exercising its regulatory and distributive functions, must adopt policies that ensure equitable distribution of resources in furtherance of public welfare and socio-



economic justice.

50. Article 39(c) of the Constitution, mandates that the State shall direct its policy towards securing that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment. The said DPSP, embodies a core facet of the Constitution's socio-economic philosophy, aimed at preventing structural imbalances thereby ensuring that economic power is not disproportionately accumulated in the hands of a few, leading to the prejudice of the broader community.

51. Article 31-C of the Constitution on the other hand, forming part of Part-III under the FRs guaranteed thereunder, provides a constitutionally significant interface between FRs and the DPSP. It states that any law enacted to give effect to the policy of State towards securing the principles enshrined under Part-IV shall not be deemed void on the ground of inconsistency with, or abridgment of, the rights conferred under Articles 14 and 19 of the Constitution.

52. The controversy pertaining to the complementary significance of Article 31-C *vis-à-vis* Articles 39(b) and 39(c) of the Constitution, holds a significant place in the constitutional history of India. Chandrachud C.J., in the case of ***Minerva Mills Limited & Ors v Union of India and Ors.***[35], observed that Part III and Part-IV are the two wheels of chariot, and as such, harmony and balance between the two forms an essential feature of the basic structure, thus, giving absolute primacy to either side would destroy such harmony.

53. The Supreme Court in the celebrated and landmark judgment of

[35] (1980) 3 SCC 625

Kesavnanda Bharati v State of Kerala[36], upheld the constitutional validity of Article 31-C in a limited sense, to the extent that it provided immunity from challenges under Articles 14, 19 and the then Article 31 of the Constitution to laws enacted to give effect to the DPSP set out in clauses (b) or (c) of Article 39 of the Constitution. Before adverting to the relevant extracts of the judgment, we must highlight that Article 31-C of the Constitution, as it stands today, is a product of rigorous constitutional evolution, having undergone significant amendments and judicial scrutiny over time. However, for the purpose of present analysis, we deem it unnecessary to delve deeply into the entire doctrinal trajectory and leave said discussion for the academic discourse.

54. Further, the Supreme Court in ***Kesavnanda Bharti*** *(Supra)* in paragraph nos.1035, 1323, 1537, 1771 and 1788, also upheld the constitutional validity of first part of Article 31-C of the Constitution, to the extent it subsumes the rights guaranteed under Part-IV, in particular, immunity from challenges under Articles 14, 19, and the then Article 31 as long as a law made by the Government satisfies the policies envisaged under Article 39(b) or (c) of the Constitution. In this regard, the Court while dealing with power of judicial review highlighted that the nexus or connection between the law and the objective set out in Article 39(b) or (c) of the Constitution is a condition precedent for the applicability of Article 31-C of the Constitution and Courts can tear the veil to decide the real nature of the statute if the facts and circumstances warrant such a course.

55. Moreover, the constitutional validity of the first part of Article

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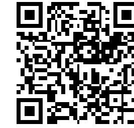
[36] (1973) 4 SCC 225



31-C of the Constitution, as it stands today, was also upheld by a Constitutional Bench of the Supreme Court in its consequent judgment in ***Waman Rao & Ors. v Union of India & Ors.***[37], wherein it was held that laws genuinely enacted to give effect to Article 39(b) and (c) of the Constitution fortify, rather than damage, the basic structure.

56. Having delineated the constitutional validity of Article 31-C of the Constitution, and the Courts power to exercise judicial review over legislations passed under Article 39(b) and (c) of the Constitution, we shall now advert to the criteria/tests laid down by the Supreme Court in order to examine whether a law passed by the Government gives effect to Article 39(b) and (c) of the Constitution. In this regard, a reference is made to the judgment in ***Tinsukhia Electric Supply Co. Ltd. v. State of Assam***[38], wherein the Supreme Court while dealing with the protection under Article 31-C of the Constitution, held as follows:

> *"3. The principal question which falls for consideration is, whether that declaration is justiciable and open to judicial review and the extent of that judicial review. Article 39(b) of the Constitution enjoins that the State in particular should direct its policy towards securing that the ownership and control of the material resources of the community are so distributed as to best subserve the common good and that the operation of the economic system does not result in concentration of wealth and means of production to the common detriment. See, in this connection, the observations of Ray, J., as the learned Chief Justice then was, in Kesavananda Bharati v. State of Kerala- (SCC pp. 585-86: SCR pp. 451-52).* ***Hence in order to decide whether a statute is within Article 31-C, the court, if necessary, may examine the nature and the character of legislation and the matter dealt with as to whether there is any nexus between the law and the principles mentioned in Article 39(b) and (c). On such an examination if it appears that there is no such nexus between the legislation and the objectives and the principles mentioned in Article 39(b) and (c), the legislation will not enjoy the protection of Article***

[37] (1981) 2 SCC 362 [54]
[38] (1989) 3 SCC 709

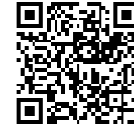
> ***31-C.*** *In order to see the real nature of the statute, if need be, the court may also tear the veil."*
>
> *(Emphasis Supplied)*

57. Similarly, in a recent judgment of ***Property Owners Association & Ors.*** *(Supra),* the Supreme Court broadly observed as follows:

> *"3. Article 31C of the Constitution provides certain legislations a safe harbour and protects them from being challenged under Articles 14 and 19.* ***The only requirement is that the legislation must give effect to "the principles specified in clause (b) or clause (c) of Article 39". In a sense, Article 31C is the ying to the yang of Article 39(b), which gives it a unique colour and texture and provides it with far-reaching consequences. Once it is established that a particular legislation has a nexus with the principles specified in Article 39(b), Article 31C provides the legislation with a lifeboat – protecting it from a challenge to its constitutionality under Articles 14 and 19 of the Constitution.****"*
>
> *(Emphasis Supplied)*

58. As per the above precedents, the decisive test established to determine a law giving effect to Article 39(b) and (c) of the Constitution, is the existence of a real and substantive nexus between the legislation and the objectives of the said Article, i.e., distribution of material resources to subserve the common good and prevention of concentration of wealth. Having regard to the aforesaid constitutional position, we shall now turn to the examination of the Impugned Regulation of 2012, on the anvil of tests laid down in ***Tinsukhia Electric Supply Co. Ltd.*** *(Supra)* and ***Property Owners Association & Ors.*** *(Supra).*

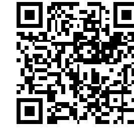
59. At this stage, it also becomes pertinent to highlight that the primary bone of contention of the Petitioners, challenging the Impugned framework, lies not in the freedom of production or non-production of content shown while advertisement, rather it finds its genesis to the assertion that the Impugned Regulation of 2012, by way of imposing a per clock hour regime on to the time ceiling of 12



minutes of advertisements, affects their 'primary source of sustenance' which namely advertising revenue. Such action taken by the Government, is argued to be undermining their economic viability, accordingly, they are asserting a right to a particular quantum of commercial gain from a public resource.

60. A reference may also be made to the explanatory memorandum attached to the Impugned Regulation of 2012, which indicates that the regulatory intervention was preceded by widespread consumer complaints regarding excessive advertisement duration, frequency, and disruptive formats. The relevant part is as follows:

> *"5. **There have been several complaints, mainly from the consumers raised at various fora, regarding overplaying of advertisements, long duration of advertisements, overlaying of advertisements on the screen, increased audio level during advertisements etc.** It has been said that the advertisement duration and formats are not in accordance with the provisions stated above. It has often been pointed out that the advertisements are played/repeated several times in between the programmes, which break the continuity of the programme and often done at crucial stages of a programme. **In this context, there have been requests to at least restrict and regulate the duration, frequency and timings of the advertisements.***
>
> *6. **With the primary objective of striking a balance between giving a consumer a good TV viewing experience, and protecting the commercial interests of broadcasters, a consultation paper was issued on 16th March 2012 titled "Issues related to Advertisements in TV channels".** In the consultation paper, various issues related to advertisements on TV channels in India were discussed and a proposal for regulation of duration and format of advertisements was put forth for comments of the stakeholders. **In response to this consultation paper, 29 comments were received. Based on the comments/ views of the stakeholders and analysis of various aspects, facts and available studies, the Authority has decided to issue separate regulations for the duration of advertisements carried in TV channels.***
>
> *8. **The other stakeholders comprising mainly the consumers, consumer organisations** and cable operators **have supported the TRAI proposal for the regulation of duration** and format of advertisements in the TV channels.*
>
> *16. One of the cable operator association has stated that the limit for the duration of the advertisement should be regulated on a clock hour*



basis as well as on 24 hr basis. ***Supporting the clock hour based capping of advertisement duration, one of the consumer organisation has stated that this would avoid accumulation of advertisement slots, especially in peak hours.*** ***Another consumer organisation has even stated that the limits may be more stringent for children specific programmes."***

(Emphasis Supplied)

61. A perusal of the aforesaid would indicate that the impugned action of the Government was preceded by, and is responsive to, concerns articulated by consumers and consumer organisations regarding the excessive duration and frequency of advertisements, which were found to materially disrupt the continuity and smooth viewing of television programmes. Therefore, the regulatory intervention reflects a considered response to legitimate consumer grievances, aimed at preserving the quality of the viewing experience and safeguarding the interests of viewers.

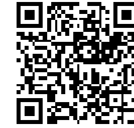
62. Against the aforestated factual backdrop, the regulatory framework governing advertisement time must be viewed as part of broader statutory scheme of the Government in regulating the use of spectrum, which constitutes a scarce and finite public resource, held by the State in a fiduciary capacity, to be utilised in order to subserve common good.

63. The measures taken by TRAI to impose a temporal limit on advertisements, in order to ensure that no material resource is exploited for excessive commercial gain by broadcasters, bear a proximate and rational nexus to the constitutional mandate of ensuring that material resources of the community are distributed and utilised so as to subserve the common good. Accordingly, the Impugned Rule and Regulations insofar as they prevent excessive commercial

exploitation, safeguard consumer interest and ensure equitable and efficient utilisation of broadcast spectrum, can legitimately be regarded as effectuating the principles embodied in Articles 39(b) and (c) of the Constitution. Consequently, the measures taken by the Government being the trustee of material resources, while imposing the per clock hour regime, in order to meet the interests of consumers, would be protected within the ambit of Article 31-C of the Constitution, thereby foreclosing the challenge of the Petitioners on alleged violations of Articles 14 and 19 of the Constitution.

64. Without prejudice to the aforesaid, even if the impugned measures are tested independently on the touchstone of FRs, the challenge would not sustain. The claim of the Petitioners on account of loss of advertising revenue falls squarely within the ambit of Article 19(1)(g) of the Constitution, which deals with freedom to carry on business, and not the core of Article 19(1)(a) of the Constitution. Reliance in this regard is placed on paragraph no.9 of judgment in ***A. Suresh*** *(Supra)*, wherein the Hon'ble Supreme Court, observed that where a speech is intertwined with business, the activity undergoes a fundamental change and must be balanced against societal interests.

65. Under Article 19(1)(g) of the Constitution, the Petitioners are entitled to carry on the business of broadcasting, subject to 'reasonable restrictions in the interests of the general public' under Article 19(6) of the Constitution. The ceiling on advertisement time constitutes one such restriction. In this backdrop, the rationale underlying the Impugned Rule and Regulations framed by TRAI must be understood in three contexts, each anchored in the principle of reasonableness. *Firstly*, excessive advertisement breaks, driven by



revenue maximisation, degrade viewer experience and provoke widespread consumer dissatisfaction. *Secondly*, international practice across numerous jurisdictions including but not limited to Argentina, Croatia, Canada, Germany, Ireland, UK, etc., converges broadly around a ceiling of 9 to 12 minutes per hour, thereby underscoring that India's 12-minute cap is neither extreme nor novel. *Thirdly*, the Impugned Regulations leaves intact the broadcasters' freedom to fix advertisement rates, design subscription models, and curate programme content for the remaining 48 minutes each hour; they merely allocate a reasonable portion of each hour to non-commercial content in the interest of viewers.

66. Therefore, to secure the commercial benefit of broadcasters is not the constitutional duty of the State. A State's obligation, particularly, where public resources are involved is to safeguard the interest of viewers and the public at large, rather than allowing or permitting its use for commercial gains as held in ***M.C. Mehta v Kamal Nath***[39] and reiterated in ***Property Owners Association*** *(Supra)*. Article 19(1)(g) of the Constitution does not guarantee profitability, and certainly not a right to monetise public property beyond reasonable structural limits imposed in the common good.

67. Adverting now to the Impugned Rule and Regulation, the 12 minutes time ceiling is not a content-based restriction, as it does not prohibit category of advertisement, rather it imposes a neutral, time-based limit on the quantity of advertisements that may occupy each hour of broadcast. To reiterate, the objective of such time ceiling is only to safeguard viewer experience and prevent the excessive

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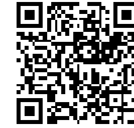
[39] (1997) 1 SCC 388



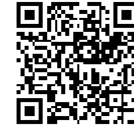
commercialisation of a scarce public resource. Such imposition of regulations has been conferred to TRAI in a manner to regulate, subject to, needless to say, the four corners of the relevant statute.

68. Further, the reliance placed by the Petitioners, on ***Kaushal Kishore*** *(Supra)*, is distinguishable from the present controversy. The aforesaid judgment holds that the grounds under Article 19(2) of the Constitution are exhaustive and, as such, cannot be enlarged by invoking other rights like Article 21 of the Constitution; and no new restrictions on free speech can be judicially created beyond the eight enumerated heads. However, in the present case, the actions of the Government, stands justified under the reasonable restrictions envisaged under Article 19(6) of the Constitution, in particular, against the primary bone of contention of the Petitioners relating to the loss of commercial gain. Moreover, the actions of the Government also stand justified under the DPSP framework provided under Article 39 of the Constitution and are not an attempt to invent new restrictions to Article 19(2) of the Constitution.

69. In this regard, a reference may be made to the judgment of Supreme Court in ***Mohd Arif alias Ashfaq v Registrar, Supreme Court of India and Others***[40], wherein the Court while reiterating its decision of ***Rustom Cavasjee Cooper (Banks Nationalisation) v Union of India***[41], highlighted that the various FRs contained in different articles are not mutually exclusive. The relevant paragraph reads as under:

> *"**The minority judgment of Subba Rao and Shah, JJ. eventually became law in Rustom Cavasjee Cooper (Banks Nationalisation) v.***

[40] (2014) 9 SCC 737
[41] (1970) 1 SCC 248



<u>Union of India, where the 11-Judge Bench finally discarded Gopalan's view and held that various fundamental rights contained in different articles are not mutually exclusive</u>*: (SCC p. 289, para 53)*

> *"53. We are therefore unable to hold that the challenge to the validity of the provision for acquisition is liable to be tested only on the ground of non-compliance with Article 31(2). Article 31(2) requires that property must be acquired for a public purpose and that it must be acquired under a law with characteristics set out in that Article. Formal compliance with the conditions under Article 31(2) is not sufficient to negative the protection of the guarantee of the right to property. Acquisition must be under the authority of a law and the expression "law" means a law which is within the competence of the Legislature, and does not impair the guarantee of the rights in Part !!I. We are unable, therefore, to agree that Articles 19(1)(/) and 31(2) are mutually exclusive."*

(Emphasis Supplied)

70. Similarly, the Supreme Court in ***K.S. Puttaswamy and Anr. v Union of India & Ors.***[42], further clarifying the structure of Part III of the Constitution, observed as follows:

> *"21.* ***<u>The theory that the fundamental rights are watertight compartments was discarded in the judgment of eleven Judges of this Court in Cooper.</u>*** *Gopalan had adopted the view that a law of preventive detention would be tested for its validity only with reference to Article 22, which was a complete code relating to the subject. Legislations on preventive detention did not, in this view, have to meet the touchstone of Article 19(1)(d).*
>
> *The dissenting view of Fazl Ali, J. in Gopalan was noticed by J.C. Shah, J. speaking for this Court, in Cooper. The consequence of the Gopalan doctrine was that the protection afforded by a guarantee of personal freedom would be decided by the object of the State action in relation to the right of the individual and not upon its effect upon the guarantee.*
>
> *Disagreeing with this view, the Court in Cooper held thus: (SCC p. 289, para 52)*
>
> *"52. ... it is necessary to bear in mind the enunciation of the guarantee of fundamental rights which has taken different forms. In some cases it is an express declaration of a guaranteed right: Articles 29(1), 30(1), 26, 25 and 32; in others to ensure protection of individual rights they take specific forms of restrictions on State action-legislative or executive-Articles 14, 15, 16, 20, 21, 22(1), 27 and 28; in some others,*

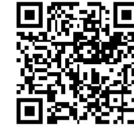
[42] (2017) 10 SCC 1

> *it takes the form of a positive declaration and simultaneously enunciates the restriction thereon : Articles 19(1) and 19(2) to (6); in some cases, it arises as an implication from the delimitation of the authority of the State, eg. Articles 31(1) and 31(2); in still others, it takes the form of a general prohibition against the State as well as others: Articles 17,23 and 24.* ***The enunciation of rights either express or by implication does not follow a uniform pattern. But one thread runs through them: they seek to protect the rights of the individual or groups of individuals against infringement of those rights within specific limits. Part III of the Constitution weaves a pattern of guarantees on the texture of basic human rights. The guarantees delimit the protection of those rights in their allotted fields: they do not attempt to enunciate distinct rights.***"

(Emphasis Supplied)

71. The jurisprudential import of the aforesaid judgment is that Part III of the Constitution embodies a unified charter of rights, where each provision delineates a specific facet of liberty rather than existing as isolated or self-contained compartments. Therefore, the analytical focus, is not confined to the ostensible classification of the right invoked, but extends to the real nature, effect, and constitutional impact of the impugned measure.

72. Tested on the touchstone of the aforesaid principles, the present controversy, reveals that notwithstanding the primary argument of the Petitioners based majorly on Article 19(1)(a) of the Constitution, this Court is not refrained from examining the impugned regulatory framework through the prism of Article 19(1)(g) as well. The various clauses under Article 19 of the Constitution do not constitute mutually exclusive or watertight compartments; rather, they represent different facets of a broader constitutional guarantee of freedom. Consequently, where State action is argued to be interfering with the commercial structuring of a licensed activity involving public resources, the same may legitimately be assessed under Article 19(1)(g) of the Constitution, even if it incidentally affects expressive elements under



Article 19(1)(a) of the Constitution.

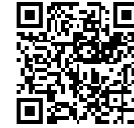
73. Similarly, the challenge pertaining to Article 14 of the Constitution proceeds on three footing that the Impugned Rule and Regulations: ***(i)*** does not distinguish between prime and non-prime time; ***(ii)*** treats heterogenous channels, such as news channels, GECs, regional channels, pay channels and FTA channels, uniformly and ***(iii)*** makes no distinction between commercial, public-service and self-promotional advertisements.

74. The Supreme Court in ***Sukanya Shantha v Union of India & Ors.***[43]***,*** while summarising the standards laid down by the Supreme Court under Article 14 of the Constitution, held as follows:

> *"42. The constitutional standards laid down by the Court under Article 14 can be summarised as follows. First, the Constitution permits classification if there is intelligible differentia and reasonable nexus with the object sought. Second, the classification test cannot be merely applied as a mathematical formula to reach a conclusion. A challenge under Article 14 has to take into account the substantive content of equality which mandates fair treatment of an individual. Third, in undertaking classification, a legislation or subordinate legislation cannot be manifestly arbitrary i.e. courts must adjudicate whether the legislature or executive acted capriciously, irrationally and/or without adequate determining principle, or did something which is excessive and disproportionate. In applying this constitutional standard, courts must identify the "real purpose" of the statute rather than the "ostensible purpose" presented by the State, as summarised in ADR. Fourth, a provision can be found manifestly arbitrary even if it does not make a classification. Fifth, different constitutional standards have to be applied when testing the validity of legislation as compared to subordinate legislation."*
>
> *(Emphasis Supplied)*

75. The five-fold framework articulated in ***Sukanya Shantha*** *(Supra)* when applied in its full doctrinal breadth, leaves little room for sustaining a challenge to the impugned framework. The

[43] (2024) 15 SCC 535

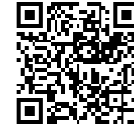


prescription of a uniform ceiling of 12 minutes per clock hour rests on a clear and intelligible structural distinction between programme content and advertising time, which bears a direct and proximate nexus to the ultimate objective of preserving viewer interest and enhancing quality of experience. Therefore, the measure satisfies the classical test of permissible classification.

76. Similarly, when tested on the touchstone of substantive equality under Article 14 of the Constitution, the framework advances fair and non-discriminatory treatment by securing for all viewers, irrespective of channel or genre of broadcast, a baseline entitlement to content-dominant broadcasting. Therefore, the regulatory focus is appropriately aligned with the end-user, consistent with the consumer-centric mandate governing the telecom sector.

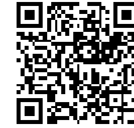
77. On the axis of manifest arbitrariness, the impugned provisions are anchored in a discernible regulatory principle, namely the prevention of excessive commercialisation of a scarce public resource and the mitigation of viewer disruption. The fixation of the ceiling is neither capricious nor disproportionate, but is informed by consultative processes, comparative international practice, and identifiable consumer concerns. Therefore, the measure does not suffer from the vice of arbitrariness as elucidated in contemporary Article 14 jurisprudence.

78. Further, even if the framework is construed as a uniform, non-classificatory rule, it cannot be impugned as inherently arbitrary, as it embodies a rational, structured, and constitutionally legitimate response to the regulation of spectrum-based services, which are vested with public interest considerations.



79. Finally, having regard to the standard applicable to subordinate legislation, both the Impugned Rule and Regulations are traceable to, and operate within, the statutory contours of the parent enactments. They disclose no excess of delegation, nor any inconsistency with the legislative scheme, and are supported by cogent policy rationale. Accordingly, when assessed cumulatively across all the facets delineated in ***Sukanya Shantha*** *(Supra)*, the Impugned Rules and Regulations is found not to be *ultra vires* Article 14 of the Constitution.

80. To conclude, the impugned regulatory framework represents a constitutionally sound exercise of the State's authority to regulate a scarce public resource in furtherance of the common good. The framework being anchored in the DPSP embodied under Articles 39(b) and (c) of the Constitution and fortified by the protective ambit of Article 31-C of the Constitution, strike a careful balance between individual freedoms and collective welfare. The limitations imposed on advertisement time neither abrogate the FRs of the Petitioners nor transgress the guarantees under Articles 14 and 19 of the Constitution, rather it constitutes a reasonable and proportionate restrictions aligned with established constitutional doctrine. When viewed holistically, the framework advances consumer interest, ensures equitable utilisation of spectrum, and preserves the integrity of the broadcasting ecosystem, thereby satisfying both the test of reasonableness under Article 19(6) of the Constitution and the mandate of non-arbitrariness under Article 14 of the Constitution. Consequently, the challenge to the impugned provisions is unsustainable in law.

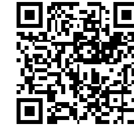


(c) Judgments forming part of core contentions of the Petitioners are distinguishable

81. The Petitioners before this Court, with great ingenuity have sought to cast what is fundamentally a grievance about loss of advertising revenue as a direct violation of their freedom of speech and expression as guaranteed under Article 19(1)(a) of the Constitution. While making the aforesaid submission, a principal reliance has been placed on the judgment of Hon'ble Supreme Court in ***Sakal Papers*** *(Supra),* ***Bennett Coleman*** *(Supra)* and ***Tata Press Ltd.*** *(Supra).*

82. However, while relying upon the aforesaid judgments, the Petitioners have overlooked a very basic distinction between the *lis* giving rise to the present petition as against the *lis* of the said judgments. In the aforesaid judgments, the Hon'ble Supreme Court, undoubtedly, laid down that programme includes advertisements and Government has no power to put a cap, as it would be violative of Article 19(1)(a) of the Constitution. However, the *lis* therein arose out of the limitations pertaining to print media.

83. In this regard, the nature of the medium in the aforestated media and usage of public resources for the same needs to be distinguished. On one hand, print media uses privately owned resources like printing presses, paper and distribution networks, while focusing on registration and professional standards and not an ex-ante licensing of editorial operations. Whereas, broadcasting media, on the other hand uses the airwaves and spectrum, which has undisputedly been characterised as a scarce public resource which shall necessarily be utilised to promote public good. On account of the scarce and public



nature of broadcasting media, the State exercises the right to impose a licensing and authorisation regime for broadcasters and regulate access to spectrum.

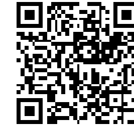
84. The distinction between print media and broadcasting has also been recognized by the Supreme Court in ***K.A. Abbas v Union of India***[44], wherein Hidayatullah, C.J. described the differences in the context of motion pictures:

> "***20. Further it has been almost universally recognised that the treatment of motion pictures must be different from that of other forms of art and expression.*** *This arises from the instant appeal of the motion picture, its versatility, realism (often surrealism), and its co-ordination of the visual and aural senses. The art of the cameraman, with trick photography, vista-vision and three-dimensional representation thrown in, has made the cinema picture more true to life than even the theatre or indeed any other form of representative art. The motion picture is able to stir up emotions more deeply than any other product of art. Its effect particularly on children and adolescents is very great since their immaturity makes them more willingly suspend their disbelief than mature men and women. They also remember the action in the picture and try to emulate or imitate what they have seen. Therefore classification of films into two categories of 'U' films and 'A' films is a reasonable classification.* ***It is also for this reason that motion pictures must be regarded differently from other forms of speech and expression. A person reading a book or other writing or hearing a speech or viewing a painting or sculpture is not so deeply stirred as by seeing a motion picture. Therefore the treatment of the latter on a different footing is also a valid classification.***"
>
> *(Emphasis Supplied)*

85. Likewise, the Supreme Court in the judgment of ***Secy. Ministry of Information and Broadcasting*** *(Supra),* while dealing with the nuances of censorship, reiterated the distinction between the print medium and the audio-visual medium:

> *"15. ……..Though a movie enjoys the guarantee under Article 19(1)(a), there is one significant difference between a movie and other modes of communication.* ***Movie motivates thought and action and assures a high degree of attention and retention. In view of the***

[44] (1970) 2 SCC 780



> ***scientific improvements in photography and production, the present movie is a powerful means of communication. It has a unique capacity to disturb and arouse feelings. It has much potential for evil as it has for good. With these qualities and since it caters for mass audience who are generally not selective about what they watch, a movie cannot be equated with other modes of communication. It cannot be allowed to function in a free market-place just as does the newspaper or magazines.*** *Censorship by prior restraint is, therefore, not only desirable but also necessary. But the First Amendment to the US Constitution does not permit any prior restraint, since the guarantee of free speech is in unqualified terms. Censorship is permitted mainly on the ground of social interests specified under Article 19(2) with emphasis on maintenance of values and standards of society."*
>
> *(Emphasis Supplied)*

86. Turning now to the circumstances in the present case, the rights claimed by broadcasters is in a capacity of a licenced user of public resources, i.e., airwaves and frequencies. This distinction is not merely formal, rather it informs the scope and character of permissible regulation. The use of a public resource necessarily attracts an additional layer of regulatory control to ensure that such resource is deployed in a manner that subserves the larger public good as highlighted in the preceeding paragraphs of this judgment. Television channels, though privately operated, function within this shared communicative space, meant for public access and consumption.

87. Accordingly, once broadcasters avail themselves of the privilege of utilising public spectrum under statutory licence, they cannot disclaim the corresponding obligation to adhere to conditions designed to regulate its use in the public interest. The imposition of a temporal ceiling on advertisements is one such condition, directed not at suppressing expression, but at structuring the use of a public resource in a manner consistent with viewer welfare.

88. Therefore, the Petitioners, while equating the two media, have

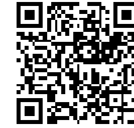
overlooked this essential constitutional distinction between private means of expression and public means of transmission, a distinction that decisively informs the validity of the impugned measure.

(d) Consultation, Transparency and Application of Mind by TRAI

89. The record shows that TRAI followed a structured process: issuing consultation papers, inviting detailed submissions, holding open-house sessions, and publishing explanatory materials before finalising the Impugned Regulations. However, it has been argued by one of the Petitioners that their objections, pertaining to economic impact and the clock-hour construct were not accepted or exhaustively discussed.

90. In accordance with ***Cellular Operators Association of India*** *(Supra)*, TRAI as a regulatory body of Government is required to act transparently, rationally, and to engage with stakeholder input; it does not require them to accept every industry position or to produce quasi-judicial orders addressing each argument *in seriatim*. So long as the material indicates that TRAI understood the competing considerations, took note of foreign practice, weighed consumer complaints against broadcaster concerns, and then adopted a uniform cap for articulated reasons, the process requirement is met. Moreover, the contending Petitioner has not demonstrated that TRAI shut out relevant material or proceeded on no evidence; at best, they show a disagreement with the regulator’s policy choice, which is outside the scope of judicial review in economic-regulatory matters.

91. In view of the aforesaid, it is noted that a right to maximise advertising inventory on public spectrum cannot override the public-



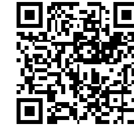
interest considerations. The loss of revenue as projected by broadcasters is at best a reduction in one revenue lever, not a denial of their right to carry on business. In view of the aforesaid precedents and constitutional terms, what is subject to protection as a FR is the freedom to conduct business of broadcasting, not a guarantee of any particular level of profit gained from the sale of advertising minutes on public property. Even otherwise, since the actions of Government highlight satisfies the tests laid down under Article 39(b) and (c) of the Constitution, the actions stand subsumed by Article 31-C of the Constitution.

D. <u>CONCLUSION:</u>

92. On a cumulative consideration of the statutory scheme, the special constitutional position of spectrum-based media, the Impugned Rule and Regulations withstand scrutiny under the Constitution, on following grounds:

a. TRAI acted within its statutory authority under Sections 11 and 36 of the Act of 1997, read with the 2004 notification, in issuing the Impugned Regulation of 2012 covering broadcasting and cable services. The per clock hour advertisement cap is a valid exercise of its regulatory power relating to QoS;

b. spectrum and airwaves are scarce public resources held in trust by the State. Their regulation must align with Articles 39(b) and (c) of the Constitution and the public trust doctrine. The impugned framework furthers this objective by preventing excessive commercial exploitation and ensuring equitable use, thereby attracting protection under Article 31-C of the Constitution;



c. even otherwise the grievance relating to loss of advertising revenue primarily falls within Article 19(1)(g) of the Constitution and not the core of Article 19(1)(a) of the Constitution. The 12-minute cap is a neutral, time-based regulation that does not restrict content but only regulates quantity of advertising time;

d. the framework is reasonable under Article 19(6) of the Constitution, as it serves the interests of the general public, preserves viewer experience, and does not interfere with broadcasters' freedom to determine content, pricing, or business models. There is no constitutional guarantee of profitability or unlimited monetisation of public resources;

e. the challenge based on Article 14 of the Constitution is unsustainable as the classification between programme content and advertisement time is intelligible and bears a rational nexus with the objective of preventing over-commercialisation and protecting consumer interest;

f. the framework is not manifestly arbitrary, being based on consultation, empirical consumer concerns, and comparative international practice. It reflects a structured and principled regulatory approach; and

g. decision-making process adopted by TRAI satisfies the requirements of consultation, transparency and application of mind.

93. The Rule 7 (11) of the Rules of 1994 and Regulation 3 of the Regulation of 2012, as amended in 2013, constitute a constitutionally valid exercise of regulatory power, striking a proportionate balance between broadcaster rights and the public interest in efficient and fair

use of broadcast spectrum.

94. Keeping in view the above position of law, as well as the facts and circumstances of the present case, the present Petitions are dismissed. The Regulation 3 of the Regulation of 2012 passed by the TRAI, effectuating Rule 7 (11) of the Rule of 1994, which are under challenge herein, do not fail to meet the rights envisaged under Articles 14 and 19 of the Constitution.

95. All the pending applications also stand closed.

ANIL KSHETARPAL, J.

AMIT MAHAJAN, J.

MAY 29, 2026
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Corrected and re-uploaded on 08.07.2026.