

IN THE HIGH COURT OF DELHI AT NEW DELHI

IN THE MATTERS OF

WP(C) 3125/2021-

**FOUNDATION FOR INDEPENDENT JOURNALISM& ORS....
PETITIONERS**

VERSUS.

UNION OF INDIA & ANR,.....

RESPONDENTS

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Date: 27th August, 2021
Place New Delhi

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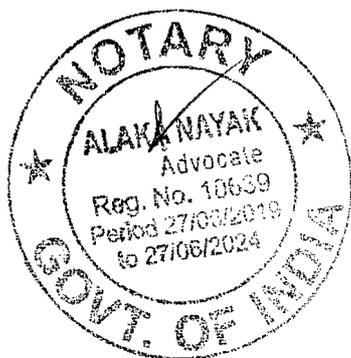
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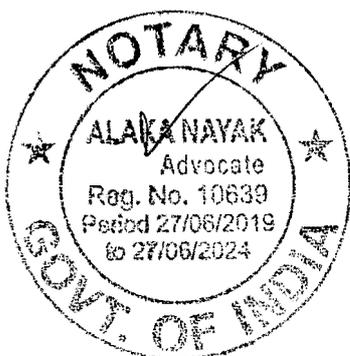
RESPONDENTS

**COUNTER REPLY ON BEHALF OF RESPONDENTS (THE
MINISTRY OF INFORMATION AND BROADCASTING AND
MINISTRY OF ELECTRONICS AND INFORMATION
TECHNOLOGY)**



I, Amarendra Singh, s/o Shri Kashi Nath Singh presently working as Deputy Secretary to the Government of India in the Ministry of Information & Broadcasting, do hereby solemnly affirm and state as under :-

1. I state that I am authorized in my official capacity to swear and depose to the present affidavit and as such, I am aware of the facts and circumstances based on the records of the case.
2. That the petitions pertain to maintainability of the provisions of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 relating to adherence to the Code of Ethics, prescribed in the Rules, by the publishers of news and current affairs on digital media vis-a vis the Information Technology Act, 2000 under which these Rules have been framed, and the Constitution of India.
3. That the Government of India had amended the allocation of business of the Ministry of Information and Broadcasting through an amendment in the Allocation of Business Rules, 1961 vide Notification dated 09.11.2020 (ANNEXURE-R1)



inter-alia inserting the following entry in the business allocated to the Respondent Ministry:

“VA. Digital/Online Media

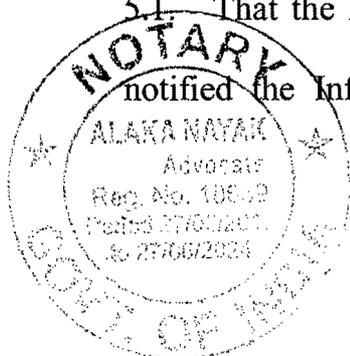
22A. Films and Audio-Visual Programmes made available by online content providers.

22B. News and current affairs content on online platforms.”

4. That the Government has notified the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (henceforth referred as “IT Rules, 2021”) under the Information Technology, Act, 2000 vide Notification No. GSR. 139 dated 25.2.2021 (**ANNEXURE R2**) for providing an institutional framework for the publishers of news and current affairs on digital media and publishers of online curated content (Over-the-Top platforms).

5. That the key features IT Rules, 2021 are as under:

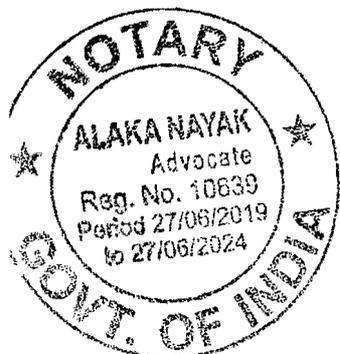
5.1. That the Ministry of Electronics and Information Technology (MeitY) notified the Information Technology (Intermediary Guidelines and Digital



Media Ethics Code) Rules, 2021 (hereafter referred to as “IT Rules, 2021”) on 25th February 2021 in the Official Gazette in the exercise of the powers conferred by sub-section (1), and clauses (z) and (zg) of sub-section (2) of section 87 of the Information Technology Act, 2000 (hereafter referred to as “IT Act”), and in supersession of the Information Technology (Intermediaries Guidelines) Rules, 2011.

5.2. That the IT Rules, 2021 seek to regulate intermediary platforms, publishers of news and current affairs content, and publishers of online curated content from publishing unlawful content. The Rules seek to govern the following three aspects in specific parts:

- i. Part I – This section contains defines the various governing aspects and entities that are covered under the rules;
- ii. Part II – Due diligence by intermediaries and grievance redressal mechanism, being administered by MeitY; and
- iii. Part III – Code of Ethics and Procedure and Safeguards in relation to publishers of news and current affairs content, and publishers of online curated content (OTT platforms) on digital media, being administered by the Ministry of Information & Broadcasting (MIB).

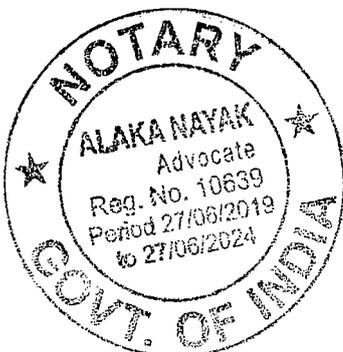


5.3. That Part-III of the IT Rules, 2021 has three broad features:

- i. Code of Ethics for digital news publishers and OTT Platforms
- ii. Three-Tier Grievance Redressal Mechanism as under:
 - a. Level-I: Publisher;
 - b. Level-II: Self-Regulating Body of publishers; and
 - c. Level-III: Oversight Mechanism of Central Government
- iii. Information disclosure.

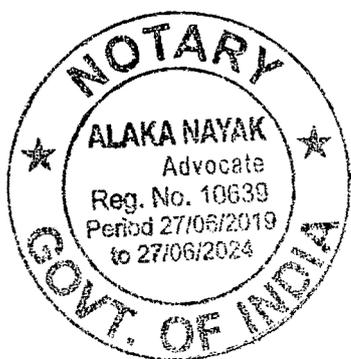
5.4. That the Code of Ethics applicable to the publishers of news and current affairs content requires such publishers to follow the following norms applicable to conventional news media i.e. Print and TV:

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



5.5. **Grievance Redressal Mechanism:** That a three-level grievance redressal mechanism has been established under Part-III of the Rules, with two levels of self-regulation- Level I being the publisher, and Level II being the Self-Regulatory Body- and the third level being the Oversight Mechanism under the Ministry of Information & Broadcasting. The Rules provide for an effective grievance redressal mechanism for receipt, processing, and time-bound disposal of public grievances related to the Code of Ethics. The roles and functions assigned to various levels of the Grievance Redressal Mechanism are as hereunder.

5.6. **Publisher (Level-I):** Every publisher shall establish a grievance redressal mechanism and appoint a Grievance Officer based in India for receiving and redressing grievances in a time-bound manner. In this regard, the publisher should communicate the decision, with respect to a grievance related to the Code of Ethics, to the complainant within 15 days. The details of the grievance redressal mechanism will be displayed by the publisher at an appropriate place on its website or interface. The complainant can appeal against the decision of the publisher to the self-regulating body of which the publisher is a member. Such an appeal can be made within 15 days of receiving the decision. If the



publisher does not respond within 15 days, the matter can directly be taken up by the self-regulating body of which the publisher is a member.

5.7. Self-Regulating Body (Level-II): Publishers, or their associations, may establish self-regulating bodies as per the provisions of the Rules. These self-regulatory bodies shall be headed by a retired judge of the Supreme Court or High Court, or an independent eminent person from the field of media, broadcasting, entertainment, child rights, etc. It shall have a maximum of six other members who would be experts from these fields.

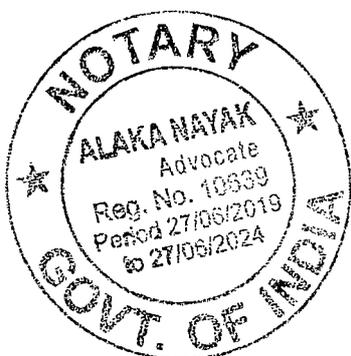
5.8. The self-regulating body shall perform the following functions:—

- i. Ensure adherence to the Code of Ethics by the publisher;
- ii. Address grievances which have not been resolved by publishers within fifteen days;
- iii. Hear appeals filed by the complainant against the decision of publishers;
- iv. Issue such guidance or advisories to such publishers for ensuring compliance to the Code of Ethics. The self-regulating body while disposing a grievance or an appeal can issue following guidance or advisories to the publishers:—



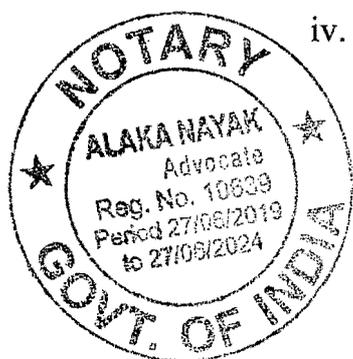
- a. Warning, censuring, admonishing or reprimanding the publisher; or
- b. Requiring an apology by the publisher; or
- c. Requiring the publisher to include a warning card or a disclaimer; or
- d. In case of online curated content, advise the publisher to,—
 - reclassify ratings of relevant content; or
 - make appropriate modification in the content descriptor, age classification and access control measures; or
 - edit synopsis of relevant content;
- e. in case of any content where it is satisfied that there is a need to delete or modify the content for preventing incitement to the commission of a cognizable offence relating to public order, or in relation to section 69A of the Act, refer such content to the Ministry for consideration by the Oversight Mechanism referred to in rule 13 for appropriate action.

The complainant can appeal against the decision of the self-regulating body to the oversight mechanism within 15 days of receiving the decision.



5.9. Oversight Mechanism (Level-III): The Ministry of Information Broadcasting, and the Inter-Departmental Committee constituted by the Ministry, shall constitute the Oversight Mechanism. The Inter-Departmental Committee would hear complaints arising out of Level II/I or referred by the Ministry, and make recommendations to the Ministry. The Inter-Departmental Committee would be chaired by the Authorised Officer designated by the Ministry and it would include representatives from other Ministries/Departments such as the Home Affairs, Electronics and Information Technology, Women and Child Development, Law and Justice, External Affairs, Defence, etc. as well as non-Governmental independent domain experts. For matters referred to the Committee, the publishers would be given an opportunity to be heard and submit their reply and clarifications before the Committee. After examining the matter in light of the Code of Ethics, and considering the response of the publisher, the Committee can make following recommendations to the Ministry:-

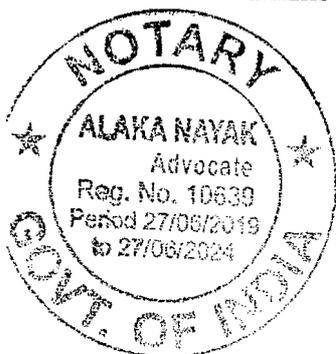
- i. Warning, censuring, admonishing or reprimanding such entity; or
- ii. Requiring an apology by such entity; or
- iii. Requiring such entity to include a warning card or a disclaimer; or
- iv. In case of online curated content, direct a publisher to—



- a. reclassify ratings of relevant content; or
- b. edit synopsis of relevant content; or
- c. make appropriate modification in the content descriptor, age classification and parental or access control;
- v. Delete or modify content for preventing incitement to the commission of a cognizable offence relating to public order;
- vi. In case of content where the Committee is satisfied that there is a need for taking action in relation to the reasons enumerated in sub-section (1) of section 69A of the Act, it may recommend such action.

5.10. That the Ministry would, after considering the recommendations of the Inter-Departmental Committee, issue appropriate orders/directions. Such a direction can only be issued by the Authorised Officer with the approval of the Secretary, Ministry of Information & Broadcasting. Furthermore, such a direction can only be issued in respect of a specific piece of content or an enumerated list of content, as the case may be, and cannot require any entity to cease its operations.

5.11. Disclosure of Information: The publishers are required to inform the Ministry about the details of their entity by furnishing information to the



Ministry for the purpose of future communication and coordination. Furthermore, the publishers and self-regulating bodies shall disclose, in public domain, the information related to grievances received by them, and the action taken on them, etc. on a monthly basis.

6. **Coverage of News and Current Affairs Content and Online Curated Content under Information Technology Act, 2000:** That with respect to news and current affairs content, the Rules provide the following definitions:

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

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

(m) ‘news and current affairs content’ includes newly received or noteworthy content, including analysis, especially about recent events primarily of socio-political, economic or cultural nature, made available over the internet or computer networks, and any digital media shall be news

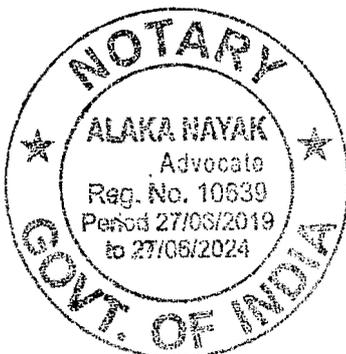


and current affairs content where the context, substance, purpose, import and meaning of such information is in the nature of news and current affairs content.

6.1 That in this regard, the IT Act, 2000 defines various terms relevant in the context of Part III of the Rules. These are as follows:

“2. Definitions.—(1) In this Act, unless the context otherwise requires,—

(o) “data” means a representation of information, knowledge, facts, concepts or instructions which are being prepared or have been prepared in a formalised manner, and is intended to be processed, is being processed or has been processed in a computer system or computer network, and may be in any form (including computer printouts magnetic or optical storage media, punched cards, punched tapes) or stored internally in the memory of the computer;



(t) “electronic record” means data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer generated micro fiche;

(v) “information” includes data, message, text, images, sound, voice, codes, computer programmes, software and data bases or micro film or computer generated micro fiche;”

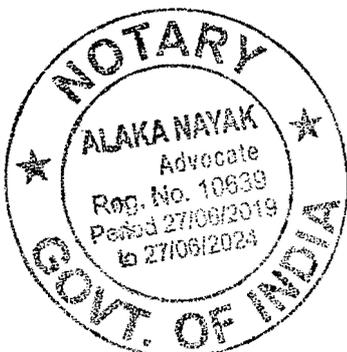
6.2 That the term ‘content’ used in the Rules means the same as the term “electronic record” as defined by the Act. The terms “electronic record” and “information”, as defined under the Act, include all forms of content, irrespective of its nature, purpose, or format. It includes all forms of content viz. text, images, sound, voice, etc. The digital media content associated with Part III of the IT Rules is limited to “news and current affairs content” and “online curated content”. In this regard, it is submitted that news and current affairs content on digital media, which is in the nature of information about recent events of general public importance, and their analysis, and can generally be published in the form of text, audio, and/or visual format, as is dealt with by Part III of the IT Rules is narrower and well within the scope of the Act.



7. **Coverage of Publishers of News and Current Affairs Content, and Publishers of Online Curated Content under the IT Act:** That Part III of the IT Rules, 2021 pertains to publishers of news and current affairs content. In this regard, the definition of the relevant entities as provided by the IT Rules, are hereby reproduced:

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

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

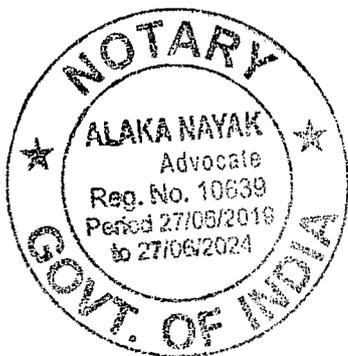


7.1 That with respect to the entities under the ambit of the IT act, the Act provides following definitions:

“2. Definitions.—(1) In this Act, unless the context otherwise requires,—

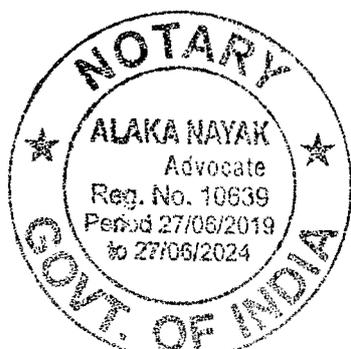
(za) “originator” means a person who sends, generates, stores or transmits any electronic message or causes any electronic message to be sent, generated, stored or transmitted to any other person but does not include an intermediary;

(w) “intermediary”, with respect to any particular electronic records, means any person who on behalf of another person receives, stores or transmits that record or provides any service with respect to that record and includes telecom service providers, network service providers, internet service providers, web-hosting service providers, search engines, online payment sites, online-auction sites, online-market places and cyber cafes;”



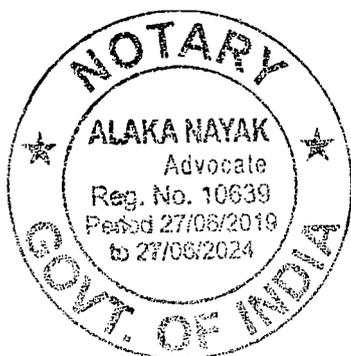
7.2 That the IT Act identifies the originator of an electronic message as one being different from an intermediary. The key difference between the originators and intermediaries lies in the control exerted by these entities over the content which is published on digital media. While intermediaries only deal with third party content, originators directly control the content which is being published. In this regard, it is submitted that while the Act, under Section 79, provides safe harbour for the content being published by an intermediary, originators are not entitled to any safe harbour provisions and are mandated to take full responsibility for the content published by them. Furthermore, the term 'originator' is a broad term that includes persons generating and transmitting electronic messages, both in the nature of public and private communication irrespective of the nature and purpose of the message. In this regard, it is submitted that publishers of news and current affairs content, as being different from intermediaries, are originators of electronic messages of the nature of news and current affairs content, and therefore, these entities are well within the scope of the Act.

8. That digital media has enabled wide dissemination of content beyond the original platform where it is published. The Reuters Institute India Digital News



Report 2019, while finding that the access of news and current affairs content through social media platforms is significant, states that:

“In our sample of English-speaking online news users, just 35% say they go directly to news websites or apps, and only 18% consider direct access their main way of accessing news online (compared to 26% in the US and 35% in Brazil). An overwhelming majority of the respondents identify various forms of distributed discovery as their main way of accessing news online. Search (32%) and various kinds of social media (24%) are particularly important. Such side-door access through various intermediaries over which news publishers themselves have limited control is far more important among our Indian respondents than it is for online news users in a market like the US. In fact, a higher proportion of Indian respondents rely on distributed discovery as the main gateway to news than is the case among



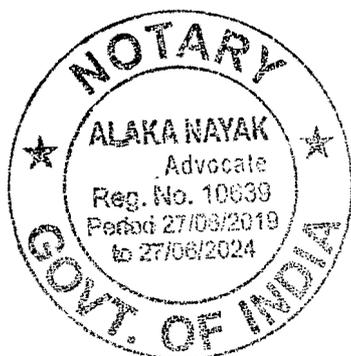
respondents in other developing markets like Brazil and Turkey.”

8.1. That the Report further adds:

“Facebook and WhatsApp are also the most widely used for news – **52% of our respondents say they get news via Facebook, and 52% say they get news via WhatsApp**, similar figures to those seen in a market like Brazil.

Other social media widely used for news (or where users are often exposed to news while using the platform for other purposes) include Instagram (26%), Twitter (18%), and Facebook’s Messenger (16%) – whereas, for example, Snapchat is much less widely used (5%).

Many Indian publishers are investing in social media teams to reach online audiences through these intermediaries, which in turn simultaneously helps them increase their

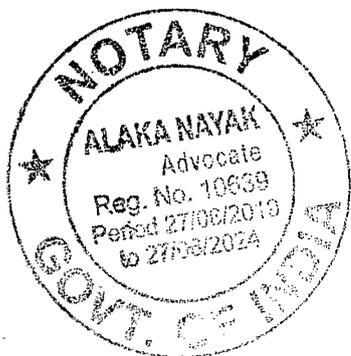


reach but leaves them exposed to sometimes dramatic changes to how ranking algorithms or other platform infrastructures work.”

(emphasis supplied)

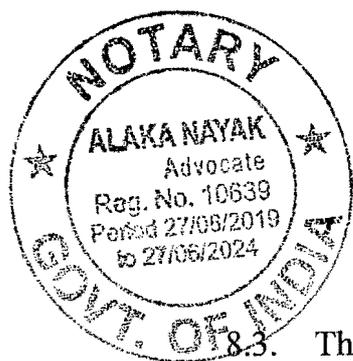
8.2. That similarly, the Reuters Institute Digital News Report 2021 finds that 41% of people pay most attention to mainstream news outlets, mainstream journalists, and emerging digital only news sources when using YouTube for news. The corresponding statistics for Twitter, Facebook, and Instagram are 35%, 37%, and 35% respectively. The various reports with respect to dissemination of news through distributed discovery mechanisms indicate that originators, such as publishers of news and current affairs content, are also users of intermediaries’ platforms (such as social media platforms) for dissemination of content published by them. In this regard, it is submitted that despite there being a clear distinction between an originator and an intermediary established by the IT Act, an important link exists between Part II and Part III of the IT Rules, 2021 in the form of rule 5, which is reproduced hereunder:

“5. Additional due diligence to be observed by an intermediary in relation to news and current affairs content.—In addition to



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

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



8.3. That in this regard, it is submitted that the Rules not only retain and recognize the difference between an intermediary and an originator, but also identify their inter-linkages on digital media. While Part II of the Rules pertains

to due diligence between the intermediaries, Part III relates to publishers of news and current affairs on digital media, which act as originators of the content so published. It is submitted in this regard that no inconsistency exists between the Rules and the Act since the Rules do not club digital media publishers with intermediaries, but treats them separately as is envisaged under the Act.

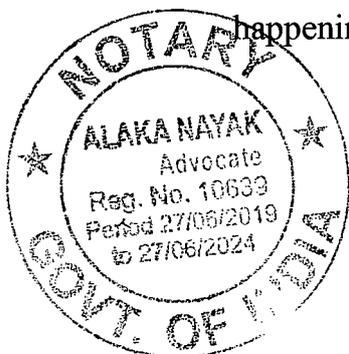
9. **Regulation of content on online platforms through the IT Act:** That with regard to the object and the scope of the IT Act, it may be mentioned that the **Preamble** of the Act states as follows:

“An Act to provide legal recognition for transactions carried out by means of electronic data interchange and other means of **electronic communication**, commonly referred to as “electronic commerce”, which involve the use of **alternatives to paper-based methods of communication and storage of information....”**

(emphasis supplied)



10. That the Preamble of the IT Act indicates that transactions carried out through “electronic communication” are within the scope of the Act. In this regard, the Act neither defines the term “transaction”, nor limits them to be applicable to commercial transactions, agreements or payments only. The internet has enabled and greatly increased the frequency and pace of transactions related to information and media content. These informational transactions may also have commercial dimensions such as business models of subscription or advertising based websites, including OTT and news platforms, as well as websites which provide services/content for free but collect and process data related to the audience/users (through cookies and other means) for commercial gains. Furthermore, the Act, while defining various terms such as “electronic record”, “data”, “information”, etc. has not limited them to be applicable only for commercial transactions or contracts over the internet, but have been defined widely to include various forms of media content which are exchanged over the internet. The IT Rules, 2021 provide definition of “publisher of news and current affairs content” which is narrowly tailored to exclude any individual or user who is not transmitting content in the course of systematic business, professional or commercial activity. In this regard, it is submitted that the term “transaction”, as used in the Preamble of the IT Act, includes informational transactions happening over the internet through exchange of electronic records which are in



the nature of news and current affairs content published by entities in the course of systematic business, professional or commercial activity. It is also submitted that a narrow interpretation of the term “transaction” as being limited to commercial transactions only would not only belie other provisions of the Act, but would also undermine the foresight of the Indian lawmakers with respect to the growth of informational exchange over the internet.

11. That additionally, the Preamble also indicates that the Act applies to cases where alternatives to paper-based methods of communication are used. In this regard, the definition of “publisher of news and current affairs content” also excludes the newspapers and replica e-papers of the newspapers. Therefore, it is submitted that Part III of the IT Rules, 2021, insofar as being applicable to digital news publishers involved in electronic communication, is within the ambit of the Act.

12. That with regard to the objectives of the Act, the **Statement of Objects and Reasons** of the IT Act states that it:

“is proposed to provide for legal recognition of **electronic records** and digital signatures. This



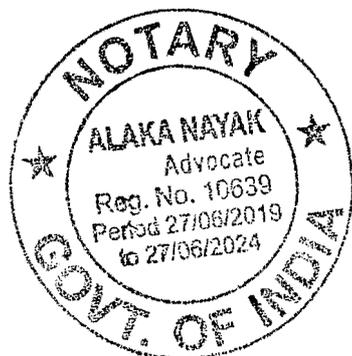
will enable the conclusion of the contracts and the **creation of rights and obligations** through the electronic medium”.

(emphasis supplied)

12.1 That the commercial contracts concluded over the internet are often limited to the use of textual format. Wide definition of the term “electronic record” indicates that the Legislature did not intend to limit the scope of the Act only to electronic records which are commercial in nature but was aware of the convergence of media technologies in the digital space. Therefore, it is submitted that the legislative intent behind the Act includes recognition and institutionalisation of media content in the digital space, and the scope of the Act extends to media content used for electronic communication. Part III of the rules is limited to “news and current affairs content” and “online curated content”, and is therefore well within the scope of the Act.

12.2. That the **Statement of Objects and Reasons** further elaborates on the objective sought to be achieved through the IT Act:

“To prevent the possible misuse arising out of transactions and other dealings concluded over the electronic medium, it is also proposed to



create **civil and criminal liabilities** for contravention of the provisions of the proposed legislation.”

(emphasis supplied)

13. That as has been already submitted, the “transactions and other dealings” over the electronic media include informational transactions. In this regard, the digital media ecosystem involves publishers of content on one hand while the audience (including subscribers of digital media publishers) on the other, with the State having the positive responsibility to ensure fairness of the dealings between these stakeholders. Since correct information lies at the heart of the democratic discourse, misuse arising out of exchange of information in the digital mediaspace has direct implications for democratic rights of citizens. Disinformation, or simply fake news, on digital media is one of the misuse of electronic records which may lead to violation of other fundamental rights of the audience, e.g. violation of the right to dignity through defamation; violation of the right to privacy through unlawful depiction in the media, violation of the right to life and personal liberty through disturbance of public order, etc. In this regard, it is submitted that while the right to freedom of speech and expression,



including the freedom of press, is critical for a vibrant democracy like India, the rights of the audience who believe and act upon misleading news cannot be overlooked as well. The citizens, while being the audience for the information published by the professional publishers of news and current affairs content, cannot be treated as passive consumers without any recourse of participation in the process of accountability with respect to the content being published. In this regard, the Hon'ble Supreme Court, in **Secretary, Ministry of Information and Broadcasting, Government of India & Ors. v. Cricket Association of Bengal & Anr.** [(1995) 2 SCC 161] held as under:

“The democracy cannot exist unless all citizens have a right to participate in the affairs of the polity of the country. **The right to participate in the affairs of the country is meaningless unless the citizens are well informed on all sides of the issues, in respect of which they are called upon to express their views. One-sided information, disinformation, misinformation and noninformation, all equally create an uninformed citizenry which makes democracy a**



farce when medium of information is monopolized either by a partisan central authority or by private individuals or oligarchy organizations. This is particularly so in a country like ours where about 65 per cent of the population is illiterate and hardly 1 ½ per cent of the population has an access to the print media which is not subject to pre-censorship.”

(emphasis supplied)

14. That furthermore, the Hon’ble Supreme Court, in **Alakh Alok Srivastava vs. Union of India**, while dealing with the issue related to mass migration of migrant labourers from their workplace to their villages/towns during the COVID-19 pandemic, held that:

“The migration of large number of labourers working in the cities was triggered by panic created by fake news that the lock down would continue for more than three months. Such panic driven migration has caused untold suffering



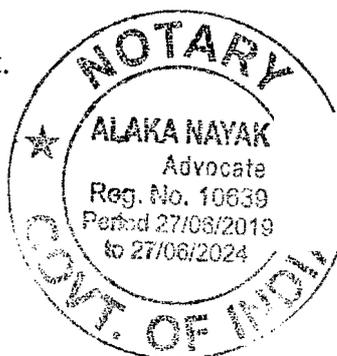
to those who believed and acted on such news.

In fact, some have lost their lives in the process. It is therefore not possible for us to overlook this menace of fake news either by electronic, print or social media...

In particular, we expect the Media (print, electronic or social) to maintain a strong sense of responsibility and ensure that unverified news capable of causing panic is not disseminated.”

(emphasis supplied)

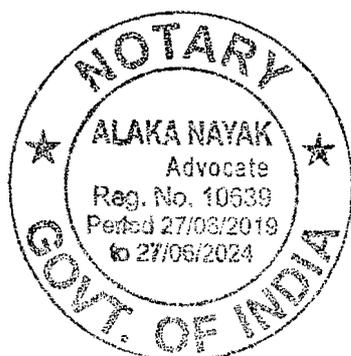
15. That in this regard, it is submitted that the IT Rules seek to prevent the misuse of the freedom of press by empowering the audience with a mechanism to raise their grievances related to the content being published by the digital news publishers through a grievance redressal mechanism with an emphasis on the self-regulatory architecture for digital news publishers, and are therefore not only within the ambit of the Act, but also fulfill the object sought to be achieved by the Act.



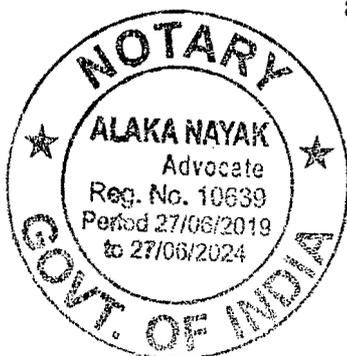
16. That on perusal of the Act, it is observed that there are several **provisions which deal with media content** published or transmitted in electronic form.

These are as follows:

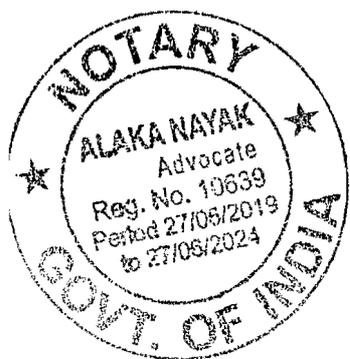
- i. **Section 11** provides for “Attribution of electronic records.—An electronic record shall be attributed to the originator— (a) if it was sent by the originator himself; (b) by a person who had the authority to act on behalf of the originator in respect of that electronic record; or (c) by an information system programmed by or on behalf of the originator to operate automatically.”
- ii. **Section 66A** provided for “Punishment for sending offensive messages through communication service, etc.” Even though this Section was declared unconstitutional by the Hon’ble Supreme Court in *Shreya Singhal vs Union of India*, it is submitted that it does not take away the fact that the legislative intent behind the Section was related to regulation of media content over the internet.
- iii. **Section 67** provides for “Punishment for publishing or transmitting obscene material in electronic form.”



- iv. **Section 67A** provides for “Punishment for publishing or transmitting of material containing sexually explicit act, etc. in electronic form.”
- v. **Section 67B** provides for “Punishment for publishing or transmitting of material depicting children in sexually explicit act, etc., in electronic form.”
- vi. **Section 69** empowers the Central Government/State Government to issue directions for interception or monitoring or decryption of any information through any computer resources if it is satisfied that it is necessary or expedient to do so in the interest of sovereignty or integrity of India, defence of India, security of the State, friendly relations with foreign states or public order or for preventing incitement to the commission of any cognizable offence relating to the above or for investigation of any offence.
- vii. **Section 69A** empowers the Central Government “to issue directions for blocking for public access of any information through any computer resource.”



- viii. **Section 69B** provides for the “power to authorise to monitor and collect traffic data or information through any computer resource for cyber security.” This power rests with the Central Government.
- ix. **Section 79(3)(b)** mandates an intermediary to “expeditiously remove or disable access to that material on that resource without vitiating the evidence in any manner upon receiving actual knowledge, or on being notified by the appropriate Government or its agency”. This Section has been read down by the Supreme Court in *Shreya Singhal vs Union of India* to mean that “the Court order and/or the notification by the appropriate Government or its agency must strictly conform to the subject matters laid down in Article 19(2). Unlawful acts beyond what is laid down in Article 19(2) obviously cannot form any part of Section 79.”



In this regard, it is submitted that regulation of media content in the electronic form, including news and current affairs content and online curated content, is well within the scope of the Act.

17. That the **legislative debates** also indicate that the scope of the Act includes e-communication, including the news publishers on digital media.

During the discussion in Lok Sabha dated 15 May, 2000 (**ANNEXURE R3**) on the Information Technology Bill, 1999, (Late) Shri Pramod Mahajan, the then Hon'ble Minister for Information & Technology, had said:

“if you ask me as a lay man to define what is Information Technology, I can only say that **Information Technology is the fourth generation of human communication.** When the human society came on the earth the first way of communication between people was through gestures. When somebody smiled we thought that he was happy. Second, the human race had brought up a spoken language. Then we come to written language. Now we have reached towards digital language which is the fourth generation of human communication. It is the faster one. The fastest fifth generation of human communication is mind to mind communication and its intellectual property rights are with the Almighty God; and nobody else has this communication.



So, **digital communication is the fourth generation**. So, when we moved from a spoken language to a written language, thousands of textbooks were written. We re-wrote everything. Similarly when we are moving from a written language to a digital language we will have to re-write almost every piece of legislation in this country.”... “this being the fourth generation of communication, we have brought up the Information Technology Bill.”

(emphasis supplied)

That during the same debate, (Late) Shri Arun Jaitley, the then Hon'ble Minister of State for Information Technology, stated:

“The first aspect of this law is e-Documentation, e-Commerce, and **e-Communication** which have become a reality.”

(emphasis supplied)



18. That during the discussion in Rajya Sabha dated 17 May, 2000, Shri Pritish Nandy, then Hon'ble Member of Parliament, had specifically referred to the impact of the bill on digital news entities (ANNEXURE R4). While expressing his apprehensions about the police powers in the bill, he remarked:

“It [information technology] has opened up a means of communication that has challenged the oligarchy, the monopolies and the vested interests of the traditional media, be it newspapers, magazines or television stations. It has empowered independent journalists and made it virtually impossible to cover up, hide or sabotage truth. It has made the humblest human being capable of fighting back the brute callousness of the State and the corruption of mighty business empires just by opening up a new, alternative means of free communication...Madam, the most important role of the internet is not e-commerce. It is not to commit crimes. It is not to have sex chats. It



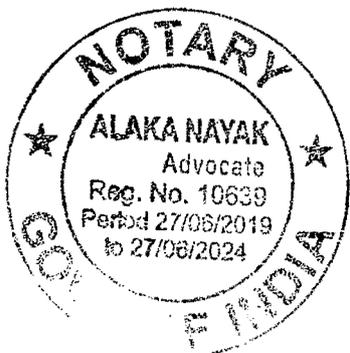
is not even to ensure e-governance, important as it may be. It is to ensure communication between people, communities, nations. It is to educate, inform, heal, teach, support and encourage assisting people. It is in its formative years, in its adolescence, right now...**While I welcome some degree of regulation**, my request to the Hon. Minister is, please leave the internet alone from prowling policemen with or without warrants.”

(emphasis supplied)

In this regard, it is submitted that a civil procedure of grievance redressal with regard to publishers of news and current affairs content on digital media is well within the scope and objects of the IT Act.

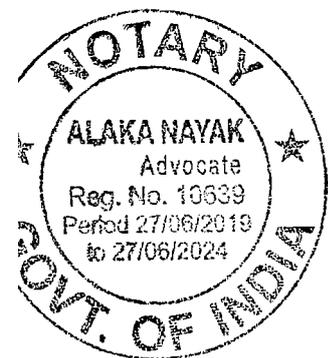
19. **Consistency of the Rules with the Act:** That the test for rule-making power was laid down by the Hon’ble Supreme Court in *State of Tamil Nadu vs.*

P. Krishnamurthy &Ors. (2006) SCC 517, wherein the Court has held:



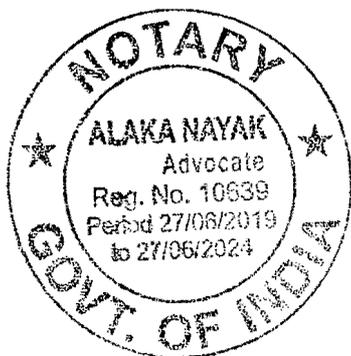
“There is a presumption in favour of constitutionality or validity of a subordinate legislation and the burden is upon him who attacks it to show that it is invalid. It is also well recognized that a subordinate legislation can be challenged under any of the following grounds:-

- a) Lack of legislative competence to make the subordinate legislation.
- b) Violation of Fundamental Rights guaranteed under the Constitution of India.
- c) Violation of any provision of the Constitution of India.
- d) Failure to conform to the Statute under which it is made or exceeding the limits of authority conferred by the enabling Act.
- e) Repugnancy to the laws of the land, that is, any enactment.



f) Manifest arbitrariness/ unreasonableness (to an extent where court might well say that Legislature never intended to give authority to make such Rules).

The court considering the validity of a subordinate Legislation, will have to consider the nature, object and scheme of the enabling Act, and also the area over which power has been delegated under the Act and then decide whether the subordinate Legislation conforms to the parent Statute. Where a Rule is directly inconsistent with a mandatory provision of the Statute, then, of course, the task of the court is simple and easy. But where the contention is that the inconsistency or nonconformity of the Rule is not with reference to any specific provision of the enabling Act, but with the object and scheme of the Parent Act, the court

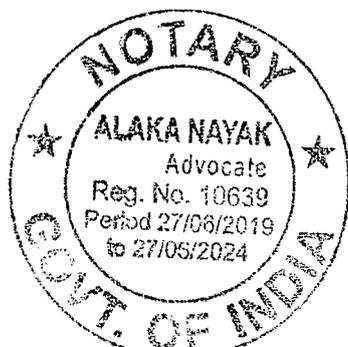


**should proceed with caution before declaring
invalidity.”**

(emphasis supplied)

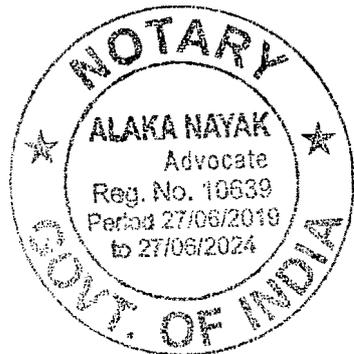
20. That the significance of the Preamble, provisions of the Act, Statement of Objects and Reasons, and the Parliamentary debates for determining the objective of an Act has been highlighted by the Hon'ble Supreme Court in multiple cases. **(Kerala State Electricity Board Vs. Indian Aluminium Co [1975] INSC 193; Utkal Contractors & Joinery Private Limited &Ors. vs. State of Orissa &ors. 1987 SCR (3) 317; Baldev Singh Bajwa Vs. Monish Saini [2005(12) SCC 778]; A. ManjulaBhashini& others vs The Managing Director, A.P. Women's Cooperative Finance Corporation Ltd. and Another (2009))**. In this regard, it is submitted that both the internal and external aids which can be utilized to appreciate the object and scope of the IT Act indicate that the IT Rules, 2021 are well within the ambit of the Act.

21. That the legislative intent of regulating content on the internet through the Act was also recognized by the Delhi High Court in **Justice for Right Foundation vs Union of India** wherein the petitioner argued for a writ of



mandamus for framing of guidelines to regulate online platforms and content published therein. The case was dismissed by the Hon'ble Delhi High Court, vide its order of 8th February 2019, on the grounds that there exist stringent provisions in place under the Information Technology Act for taking action in case of violation of the Act or Rules framed thereunder. The High Court held that:

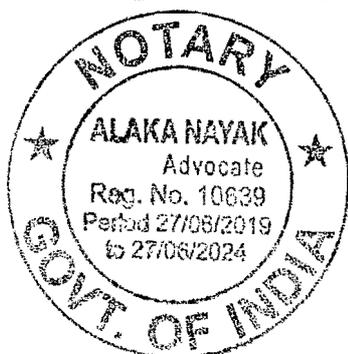
“we see no reason to issue any Mandamus for bringing in place guidelines or statutory regulations for the said purpose when the **Information Technology Act itself provide for enough procedural safeguards for taking action in the event of any prohibited act being undertaken by the broadcasters or organizations in the internet/online platform.**”



22. That the IT Act is administered by the Ministry of Electronics and Information Technology (MeitY) of the Government of India. The IT Rules have been formulated in exercise of the powers conferred by sub-section (1), clauses (z) and (zg) of sub-section (2) of section 87 of the Act. In this regard, Section

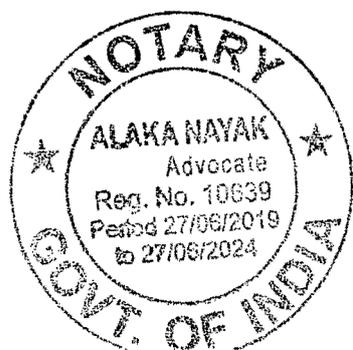
87(1) is the general rule making power relating to the broader scope of the Act, and the Sections 87(2)(z) and 87(2)(zg) are specific rule making powers in relation to blocking of content and the due diligence to be observed by intermediaries respectively. Therefore, considering the wider objective and scope of the Act, the Rules are consistent with the Act. Furthermore, the subjects- “News and current affairs content on online platforms” and “Films and Audio-Visual programmes made available by online content providers” lie within the administrative ambit of the Ministry of Information & Broadcasting (MIB). Part III of the Rules is to be administered by MIB utilizing the powers delegated by MeitY for this purpose. In this regard, it is submitted that from the perspective of both scope of the Rules, as well as administration of the Rules, Part III is well within the legislative competence of MeitY to make such subordinate legislation.

23. That within the broader scope of communication, one can make a distinction between public and private communication. While communications such as sending and receipt of email, and conclusion of contracts over the internet are private communications between entities, publishing content on social media platforms, digital news portals and OTT platforms is essentially a



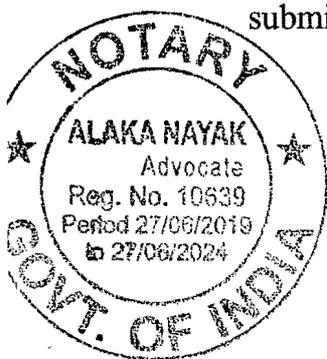
public communication. It is submitted that the Information Technology Act recognizes both private and public communication. In respect of intermediaries, the users are the originators of content. Rule 3(2) of the Information Technology (Intermediary Guidelines) Rules, 2011 (ANNEXURE -R5) provided for intermediaries to inform the users not to host, display or upload certain forms of information. The aforementioned rule was upheld by the Hon'ble Supreme Court through the *Shreya Singhal* judgement. Just like ordinary users, publishers on digital media are also involved in public communication, albeit with a relatively much larger impact. Therefore, it is submitted that an argument which claims that the scope of the Information Technology Act includes content published by ordinary users, but does not include content published by well-organized commercially oriented news publishers or OTT platforms, publishing content as a systematic business, professional or commercial activity, may not be legally tenable.

24. That with regard to an institutional mechanism for publishers of news and current affairs content under the IT Act, it is submitted that despite being within the scope of the Act, lack of institutional mechanism for these entities was due to the ambiguity regarding the Ministry under which such a mechanism was to

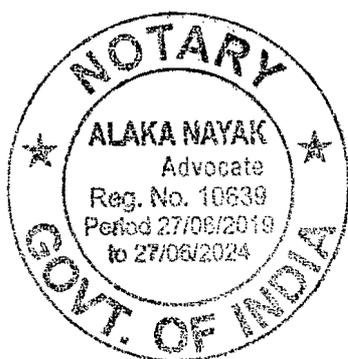


be administered. This ambiguity was resolved by the Central Government notification dated 09.11.2020, through which the subject “News and current affairs content on online platforms” and “Films and Audio-Visual programmes made available by online content providers” was transferred to the Ministry of Information & Broadcasting. In this regard, it is submitted that Part III of the Rules dealing with public communication by publishers of news and current affairs content, would be administered by the Ministry of Information & Broadcasting utilizing the authority delegated by MeitY under the IT Act.

25. That with respect to the application of the Norms of Journalistic Conduct of the Press Council of India under the Press Council Act, 1978, it is submitted that The Press Council of India has the mandate to look into various aspects related to content appearing in Print Media. The Press Council has prepared the Norms for Journalistic Conduct for this purpose. Additionally, the Council has the powers to conduct enquiries on the basis of complaints and take suitable action including warning, admonition, censor, etc. Similarly, TV news channels are required to follow the Programme and Advertising Codes laid down under the Cable Television Networks (Regulation) Act, 1995. In this regard, it is submitted that while the Press Council Act, 1978 regulates content appearing in

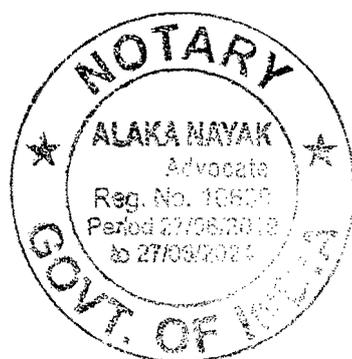


print media (newspapers) through the application of Norms of Journalistic Conduct, and the Cable Television Networks (Regulation) Act regulates the content on television news channels through the Programme Code under Section 5, the news and current affairs content appearing on digital media is covered under the IT Act. Since digital media is format agnostic, and all forms of text, image, audio, video, voice or a combination of these content formats can coexist on digital media. In this regard, it is submitted that inclusion of the Norms of Journalistic Conduct and the Programme Code under the Code of Ethics applicable to news and current affairs content on digital media merely extends the applicable norms for traditional media to the digital media without extending the entire Press Council Act or the Cable Television Networks (Regulation) Act to publishers of news and current affairs content on digital media. Similar harmony between various laws relating to a particular field, regulation of news and current affairs content in this case, already exists in the case of multiple other subject matters, and in no way can be interpreted to go beyond the boundaries of the parent legislation. Furthermore, it is also submitted that in the absence of guidelines for digital media, the existing set of guidelines, which have been time-tested with respect to print and electronic media, are apt to be applicable to news and current affairs content on digital media as well.

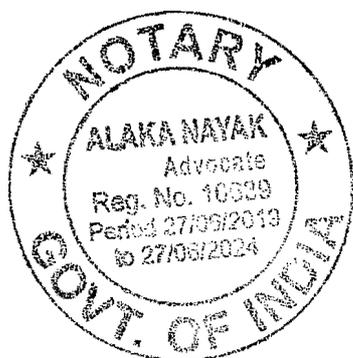


26. That in this regard, the Bombay High Court, in **Nilesh Navalakha vs Union of India**, while adjudicating upon the guidelines for reporting cases of deaths by suicide, held that:

“325. However, keeping in view the holistic purpose that is sought to be achieved by implementation of the guidelines contained in the Press Release dated September 13, 2019, we see no reason as to why apart from the print media, the electronic media may not be guided thereby while reporting on death cases by suicide. **We hold that in the absence of guidelines of a statutory authority formulating similar such standards and putting in place in relation to reporting of deaths by suicide for the electronic media, the norms of journalistic conduct framed by the PCI for the print media ought to be extended to cover the electronic media till such time appropriate guidelines are framed for the electronic media by the appropriate authority.**



Though the electronic media is not bound by the PCI Act, we are prompted to hold that the electronic media should also be guided by the contents of the guidelines of the PCI on reporting of death cases by suicide for two reasons: first, the said guidelines have a statutory flavour and similar such binding guidelines on reporting cases of death by suicide are non-existent for the electronic media; and secondly, the absence of such guidelines could, and as we have been shown in the present case, lead to the dignity of the dead being breached with impunity. The death of the actor was followed by such crude, indecent and distasteful news reporting by a few of the TV channels that we do not consider it worthy of being referred to here and be a part of this judgment. Nonetheless, instead of the Court legislating and laying down guidelines on reporting of death cases by suicide, it would be wise and prudent on our part to give direction for adherence to the guidelines of the PCI in this behalf

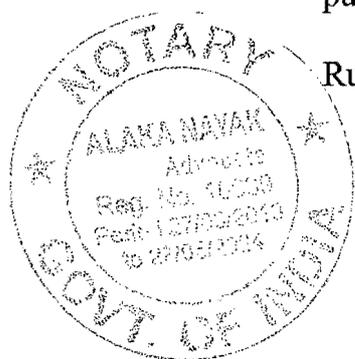


by the electronic media while it reports cases of death by suicide, which would secure the ends of justice.”

(emphasis supplied)

27. That based on the arguments in the preceding paragraphs, and the precedents established by the Hon’ble Supreme Court through its various rulings, it is submitted that:

- The IT Act is administered by MeitY, and the IT Rules, 2021 lie within the legislative competence of MeitY;
- The scope of the Information Technology Act includes recognition and regulation of electronic records which are in the nature of media content, and therefore, Part III of the IT Rules, 2021 are within the ambit of the objective of the Act;
- The media content sought to be recognized and regulated by the Information Technology Act includes the news and current affairs content published by digital news publishers as recognized by Part III of the IT Rules, 2021;

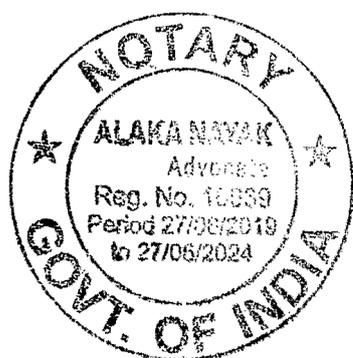


- Part III of the Rules seeks to establish an institutional mechanism for the digital media in consonance with the objective of the Act as enunciated in the Preamble, and Statement of Objects and Reasons of the Act; and
- No provision of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 violates any provision of the Information Technology Act.

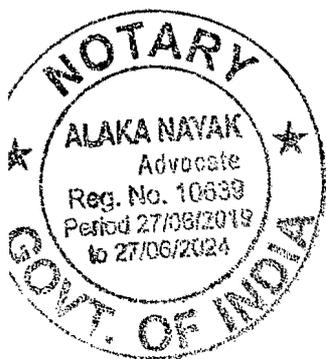
28. That it is, therefore, submitted that the Part III of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 conform to the legislative authority for subordinate legislation established under Section 87(1) the Information Technology Act, 2000, and is within the scope of the Act.

29. **Level playing field between traditional and digital media and Article 14:** That Part III of IT Rules, 2021 pertains only to digital media publishers. In this regard, digital media involves certain unique aspects as compared to the traditional modes of media dissemination such as print or television media.

Some of the differences in this regard are as follows:



- i. The reach of digital media is far wider as compared to traditional media. Content published from one part of the country can be disseminated and shared even in the remotest locations. Using the open internet, a digital media entity can publish news or analysis about happenings in any part of the world. While enabling interactions across the world, the transcontinental nature of digital news also makes it a powerful tool for information campaigns by foreign state and non-state actors to influence public opinion in any nation.
- ii. The audience on digital media is far wider than the audience on traditional print media forms. While the written word can only be accessed by literate persons, internet can be accessed by literate and illiterate both;
- iii. The digital medium has opened up the scope for interactivity between news producers and news consumers. Engaging content is responded to by consumers through likes, shares, “retweets”, comments, etc. Online platforms, for commercial reasons, may have a tendency to retain the consumer on their platform for a longer period. This results in proliferation and spread of news content that appears to be sensational. The risk of false or misleading information is greater over the internet as the same can be spread rapidly within the society.

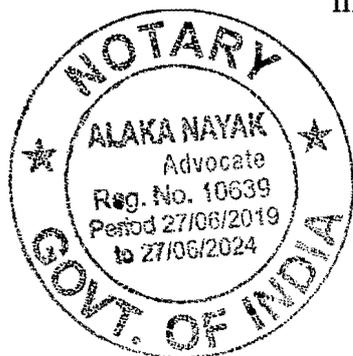


- iv. Digital media has an element of permanence as different from traditional media. While news on television is momentary with the broadcast happening once through the TV channels, news content in a newspaper also has a short shelf life in terms of being relevant or misused in a different context. Digital media, however, allows sensational content being recirculated in a different context leading to misinterpretation by the audience. The permanence of a false content once made available on the internet raises its potential for being used as fake news.
- v. The available avenues for regulation in terms of logistical or infrastructural constraints on digital media are weaker as compared to traditional media. Print media involves various physical requirements such as the newsprint, printing press, distribution network, etc. Similarly, television media requires licensed frequency spectrum, trained personnel, specialised studios and other apparatus, etc. In this regard, regulation of digital media is unique as a common person with a smartphone and an internet connection can act as a publisher of news and current affairs without any requirement of much investment.
- vi. Digital media is format agnostic. Print media is limited to dissemination of textual material, radio for audio content, and the television media can

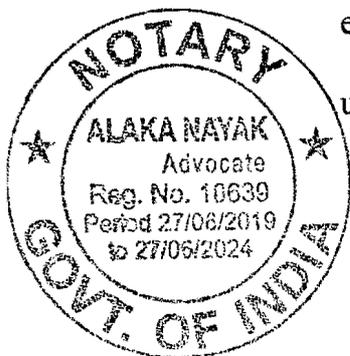


only be used for audio-visual content. However, digital media enables publishing of content in any of the above formats.

- vii. Digital media enables multiplicity of delivery channels. While traditional media, such as a newspaper or a television news channel, operated through a single delivery mechanism such as a physical paper or a television, online news may be accessed through the website/app of the news portal, through notifications sent by a news aggregator, through social media accounts of news portals or even through a friend who has shared the news on his personal social media account. This vast expanse of delivery nodes of digital media makes it unique as compared to a newspaper or a television news channel.
- viii. News on online media is also characterised by having the potential for being rapidly transmitted through the above mentioned multiple delivery channels. While the traditional media operated on news cycles with the newspaper being delivered in the morning/evening, and TV news bulletins transmitted as per pre-defined schedules, digital news is produced, transmitted and consumed on a 24X7 basis. This feature not only calls for greater sense of responsibility on producers of digital news media content, but also greater media literacy among the audience.



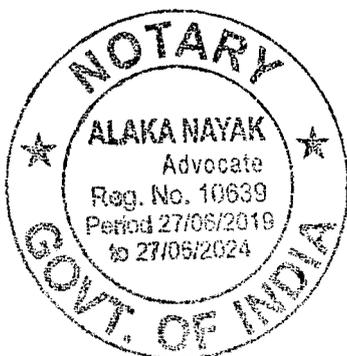
- ix. In case of print media or medium of television, whatever is truly recorded can only be published or broadcasted (televised) viewed. In the case of digital media, morphing of images, change of voices and many other technologically advance methods to create serious potential social disorder can be applied.
- x. News on online platforms has transformed the consumer into a “prosumer” i.e. Producer + Consumer. Digital forms of media allow the audiences to not only consume content, but also produce content. The “gatekeeping” function performed by the traditional news outlets has considerably diluted due to the emergence of user generated content. With easy access to a smartphone, cheap internet data and a social media account, users not only share stories which directly impact them but also views and opinions which shape the democratic discourse. Individuals or groups can use digital media with very low barriers of entry or regulation to disseminate false, sensationalist or misleading news over the internet, which can then be rapidly transmitted among the people.
- xi. In the case of other mediums like newspapers or television, the approach is always an institutionalized approach governed by industry specific ethical norms of self regulation. Before the notification of the Rules, the use of internet was solely based upon the individualistic approach without



any existing check, balance or regulatory ethical norms for exercising freedom of speech and expression under Article 19(1)(a).

30. That it is submitted that there exists a substantial intelligible differentia between the traditional media (print and TV) and digital media, and any contention that digital news publishers are similar to newspapers is flawed and superfluous. In this regard, the judgement of the Hon'ble Supreme Court in **Shreya Singhal vs. Union of India** held that:

“The intelligible differentia is clear – the internet gives any individual a platform which requires very little or no payment through which to air his views. The learned Additional Solicitor General has correctly said that something posted on a site or website travels like lightning and can reach millions of persons all over the world. If the petitioners were right, this Article 14 argument would apply equally to all other offences created by the Information Technology Act which are not the subject matter of challenge in these petitions.



We make it clear that **there is an intelligible differentia between speech on the internet and other mediums of communication** for which separate offences can certainly be created by legislation. We find, therefore, that the challenge on the ground of Article 14 must fail.

Based on the intelligible differentia between the speech on digital media and traditional media, it is submitted that a separate institutional mechanism for dealing with media content on the internet is not violative of Article 14 of the Constitution.

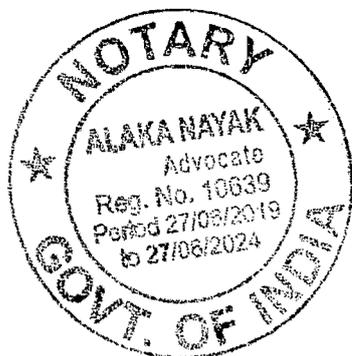
31. That before the notification of the Rules, digital news media was largely unregulated. In respect of Print Media, the Press and Registration of Books Act, 1867 provides for registration of publications, including newspapers. The Press Council of India, under the Press Council Act, 1978, has the mandate to look into various aspects related to content appearing in Print Media. The Press Council has prepared the Norms for Journalistic Conduct for this purpose. Additionally, the Council has the powers to conduct enquiries on the basis of complaints and take suitable action including warning, admonition, censor, etc.



Similarly, TV news channels are required to follow the Programme and Advertising Codes laid down under the Cable Television Networks (Regulation) Act, 1995. In this regard, it is submitted that before the notification of the Rules, no such mechanism was currently in operation with regard to news on digital media, thereby leading to a discriminatory imbalance within the news media ecosystem with respect to content on traditional media.

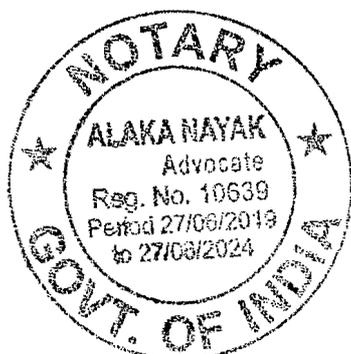
32. That the digital news publishers, like traditional media entities, operate in an environment of cut-throat competition. With rapid expansion of the internet penetration and cheap data, India has witnessed mushrooming of publishers operating on digital media. In this regard, “*Journalism, Fake News and Disinformation*” (2018), UNESCO’s handbook for journalism education and training, brings out the impact of digital transformation of newsrooms and storytelling as follows:

- Media convergence: many journalists are now tasked to produce content for multiple platforms concurrently (from mobile to print), further depleting time available for proactive reportage, as distinct from reactive modes such as



reproducing public relations content without adequate scrutiny

- **Reporters are increasingly required to sub-edit and publish their own content without appropriate review**
- **Digital-first deadlines are always *now*; heightening the risk of errors**
- Social-first publishing is commonplace, with reporters posting their stories to their individual social media accounts and/or those of their publishers to meet audience demand for real-time news. **Practices include ‘live tweeting’, ‘Facebook Live’ videos, and other journalistic acts which do not necessarily involve editorial oversight (akin to live broadcasting), potentially resulting in a ‘publish first, check later’ mindset**
- Reliance on rudimentary data analytics that focus on the number of article clicks and unique website



visitors instead of ‘attention minutes’ and ‘time spent’ (more useful markers for long-form and quality journalism) used to justify higher prices for increasingly scarce and low-rate digital advertising

- **Clickbait practices (understood as the use of misleading headlines to entice readers to click on links under false pretences) designed to drive traffic** but which have been associated with erosion of trust in professional journalism
- **Pursuit of virality at the expense of quality and accuracy.** This is a problem likely to be exacerbated by ‘machine learning’
- The rise of fact-checking units within newsrooms, and as outputs of media development projects”

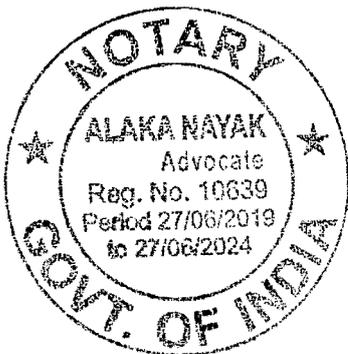
(emphasis supplied)



33. That it is submitted that an economic environment marked by competition for eye-balls and regulatory vacuum with respect to the content on digital media

has led to spread of fake news and other potentially harmful content without any accountability of digital news publishers. In this regard, the Supreme Court, in *Alakh Alok Srivastava vs Union of India*, observed that:

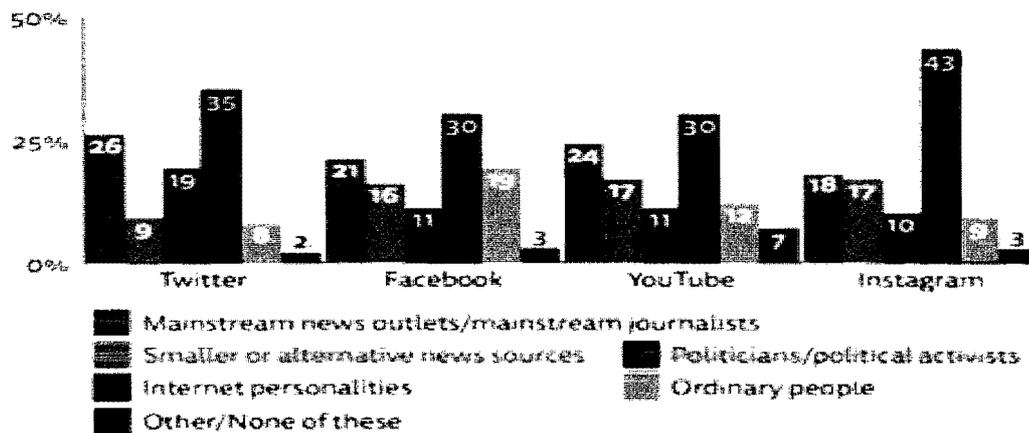
“In particular, we expect the Media (print, electronic or social) to maintain a strong sense of responsibility and ensure that **unverified news capable of causing panic is not disseminated.** A daily bulletin by the Government of India through all media avenues including social media and forums to clear the doubts of people would be made active within a period of 24 hours as submitted by the Solicitor General of India. **We do not intend to interfere with the free discussion about the pandemic, but direct the media refer to and publish the official version about the developments.**”



34. That it is stated and submitted that traditional news entities, disseminating news through newspapers and/or TV, have also adopted the digital medium.

Reuters Digital News Report 2021, in respect of India, also states that mainstream news outlets receive higher levels of attention as compared to

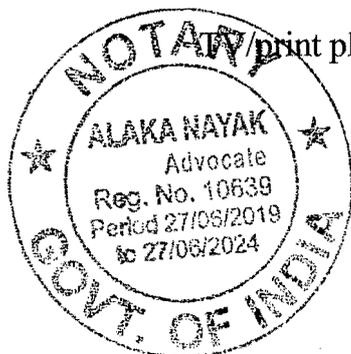
WHO PEOPLE PAY MOST ATTENTION TO WHEN USING EACH SOCIAL NETWORK FOR NEWS – INDIA



Q12_Social_sources. You said that you use < social platform > for news. When it comes to news on <social platform > which of these do you generally pay most attention to? Base: Randomly selected Twitter/Facebook/YouTube/Instagram news users. 1/22/2019-1/29/2019

smaller or alternative sources of news on social media. The unique features of digital media, as mentioned in paragraph 29, and the associated benefits and risks, are identical for traditional news publishers which also publish content on digital media, and standalone digital publishers. In this regard, it is submitted that may not be true that the traditional media entities have remained in the business of publishing newspapers or broadcasting content through television channels. In this regard, making any exception of the nature proposed will be discriminatory to the digital news publishers who do not have a traditional

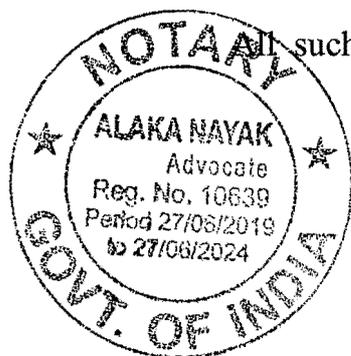
print platform and violative of Article 14 of the Constitution.



(Source: Reuters Digital News Report 2021)

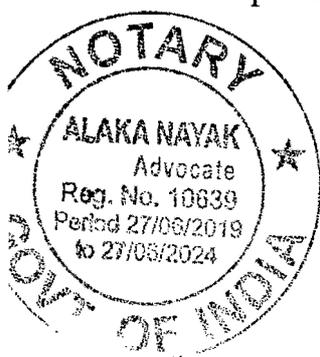
35. That it is submitted that there is a difference in the content published/broadcast by traditional media entities on newspaper/television and the content published by their digital media arms. Digital medium is format agnostic. This feature has been used by digital news entities of both newspapers as well as television news channels. Digital platforms of many newspapers conduct panel discussions in the audio-visual format. These are not possible to be published in the newspaper but are made available on digital media in the form of videos or podcasts. Similarly, digital media platforms of many television news channels publish textual reports and editorial/opinion articles, which are not broadcast on television. Traditional print media outlets often share pictures and graphics on their website and social media handles which do not make it to the print version. Similarly, the text, headline, short description or image used by traditional media entities for content on digital media is, in many cases, different from those used in the newspaper or television. Many traditional newspapers often run a live page of breaking news stories on their apps and website. These pages have minute-by-minute updates of a breaking news story.

such updates in the feed may not necessarily make it to the printed



newspaper. Digital media provides the facility for regional classification of news stories. Some traditional media entities use multiple separate sections on their website or multiple social media accounts dedicated to specific regions. Such regional classification targeted to the audience of a certain region is not necessarily available in the newspaper or the broadcast news on television. It is submitted that in these respects, the digital media arms of traditional news publishers are similar to digital standalone news publishers, and making any exception of the nature proposed by Digital News Publishers Association through its various representations would be discriminatory to the digital news publishers who do not have a traditional TV/print platform, and violative of Article 14 of the Constitution.

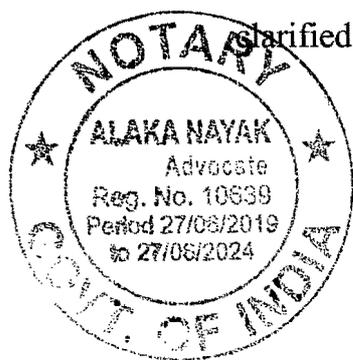
36. That while the Press Council Act covers newspapers (including a replica e-version of a newspaper), the news portals/websites are not covered under that Act. Similarly, with regard to traditional TV news entities, while content appearing on a traditional TV channel is covered under the content regulations framed under the Cable Television Networks (Regulation) Act (Programme Code, etc) read along with the Uplinking and Downlinking Guidelines for private TV channels (2011), the digital news portals/websites of these traditional



TV organizations are not covered under that Act/Guidelines. As a case in point, in a recent decision, the News Broadcasters Standards Authority (NBSA) held that a news which appears only on the website of an organization but not its traditional TV platform would be outside the scope of its jurisdiction. Accordingly, it is submitted that news portals/websites even of the organizations having newspapers or television news channels will be covered under the IT Rules, 2021.

37. That with regard to television news media entities, News Broadcasters Association (NBA), an association of television news broadcasters, had already submitted that its members adhere to the Programme Code under the Cable Television Networks (Regulation) Act, 1995 (ANNEXURE R6) . In this regard, it is submitted that extending the well established and time-tested norms of ethical journalism to digital media content published by these entities is no new or additional compliance.

38. That it is submitted that the above mentioned aspects (as mentioned in paragraphs 34 to 37) with respect to traditional media entities have already been clarified by the Ministry vide communication dated 10.06.2021 (ANNEXURE



R7). In this regard, it is submitted that similar treatment of digital media portals of traditional media entities with the standalone digital news media entities is in consonance with Article 14 of the Constitution.

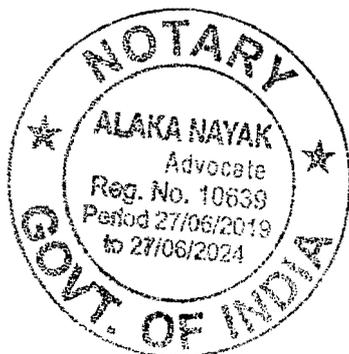
39. That the Norms of Journalistic Conduct are professional standards of media ethics that have been formulated by the Press Council of India. The norms formulated by the Council are updated from time-to-time and have statutory force in the field of print media. In this regard, the relevant provisions of the Press Council Act are hereby reproduced:

13. Objects and functions of the Council—(1)

The objects of the Council shall be to preserve the freedom of the Press and to maintain and improve the standards of newspapers and news agencies in India.

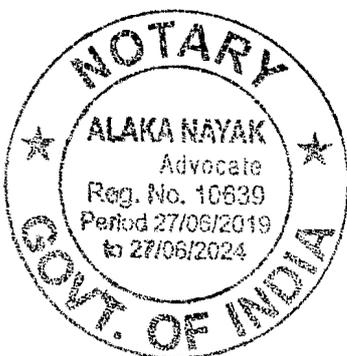
(2) The Council may, in furtherance of its objects, perform the following functions, namely:—

(a) to help newspapers and news agencies to maintain their independence;



(b) to build up a code of conduct for newspapers, news agencies and journalists in accordance with high professional standards;....

14. Power to censure.—(1) Where, on receipt of a complaint made to it or otherwise, the Council has reason to believe that a newspaper or news agency has offended against the standards or journalistic ethics or public taste or that an editor or a working journalist has committed any professional misconduct, the Council may, after giving the newspaper, or news agency, the editor or journalist concerned an opportunity of being heard, hold an inquiry in such manner as may be provided by regulations made under this Act and, if it is satisfied that it is necessary so to do, it may, for reasons to be recorded in writing, warn, admonish or censure the newspaper, the news agency, the editor or the journalist or disapprove

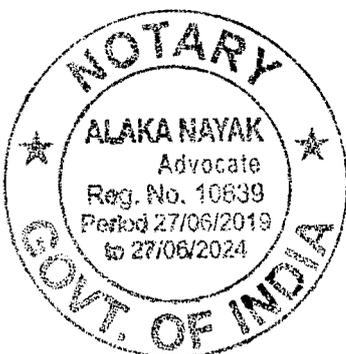


the conduct of the editor or the journalist, as the case may be:

Provided that the Council may not take cognizance of a complaint if in the opinion of the Chairman, there is no sufficient ground for holding an inquiry...”

(emphasis supplied)

40. That the Press Council of India has conducted several inquiries based on complaints pertaining to the alleged violation of the Norms of Journalistic Conduct, and passed multiple adjudications utilizing the legal force of the above Norms under the Sections 13 and 14 of the Press Council of Act. This fact has also been recognized by the latest (2019) version of the Norms of Journalistic Conduct (**ANNEXURE R8**), the preface of which is written by Hon’ble Justice Chandramauli Kumar Prasad, Chairman, Press Council of India, and is reproduced hereunder:

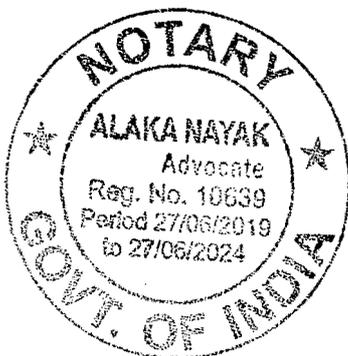


“ *Journalists are to keep their personal feeling out of their reporting, they should write, what they know not what they think and give all sides a*

chance to be heard. Five Ws. Who, What, When, Where and Why should guide them. The Press is held as the fourth state but its potentiality as the fourth pillar of democracy was realised only after independence.

The Press is a mass communicator, representative of the people and voice of the voiceless which has achieved the position of a natural ally of the society for its existence, projection and well-being.

In pursuit of its role, however, the journalists have to follow a code of conduct and it is the obligation of the Press Council of India to build up a code of conduct in accordance with its high professional standard. To achieve this, the 2019 edition of Norms of Journalistic Conduct based on the adjudications by the council is being presented with the hope that it shall guide all those who are involved in the dissemination of news.



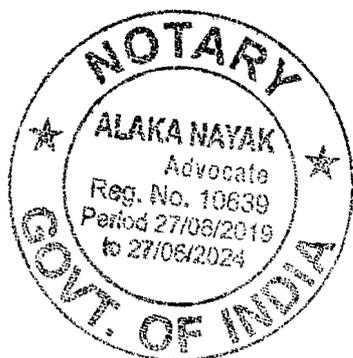
I hope and trust the readers will find this 2019 edition of Norms of Journalistic Conduct as useful and informative.”

(emphasis supplied)

41. That similarly, the Programme Code under the Cable Television Network Regulation Act is the well established and time-tested standard for electronic media, mostly dealing with audio-visual content. In this regard, relevant provisions under the CTN Act are hereby reproduced:

“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.

19. Power to prohibit transmission of certain programmes in public interest.—Where any authorised officer, thinks it necessary or expedient so to do in the public interest, he may, by order, prohibit any cable operator from transmitting or re-



transmitting any programme or channel if, it is not in conformity with the prescribed programme code referred to in section 5 and advertisement code referred to in section 6 or if it is likely to promote, on grounds of religion, race, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, linguistic or regional groups or castes or communities or which is likely to disturb the public tranquillity.

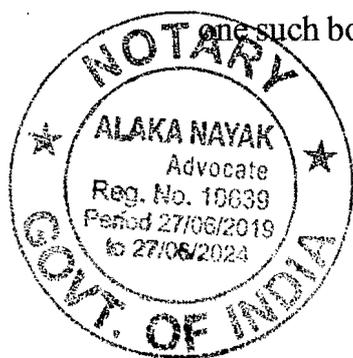
20. Power to prohibit operation of cable television network in public interest.—(3)

Where the Central Government considers that any programme of any channel is not in conformity with the prescribed programme code referred to in section 5 or the prescribed advertisement code referred to in section 6, it may by order, regulate or prohibit the transmission or re-transmission of such programme.”



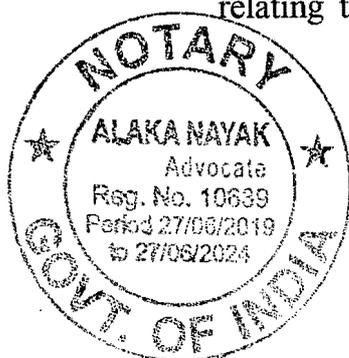
42. That the Digital media is format agnostic, and all forms of text, image, audio, video, voice or a combination of these content formats can coexist on digital media. In this regard, it is submitted that with the inclusion of the Norms of Journalistic Conduct and the Programme Code, both already having statutory force in respect of print and television news media respectively, within the Code of Ethics under the IT Rules, 2021, these norms would guide the digital news publishers with respect to production of all formats of news and current affairs content, and create a level playing field between the traditional media entities and the digital news publishers while bringing a sense of professionalism as well as responsibility for sustainable growth of the digital news industry.

43. That with regard to Level-II of the grievance redressal framework, it is submitted that self-regulation by associations of news publishers is already in vogue in respect of the television news media. The traditional TV media organizations have formed various associations to adjudicate grievances relating to violation of Programme Code under the Cable Television Network Act, 1995 and their internal codes/guidelines. News Broadcasters Standards Authority is one such body. With respect to the print media, the Press Council of India serves



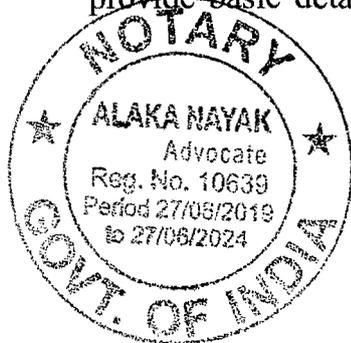
as the statutory self-regulatory body under the Press Council Act, 1978. The requirement of the Level II under the IT Rules, 2021 is only an extension of an existing institutional practice. Furthermore, as claimed by the traditional media entities, the Government recognizes that the digital version/digital publication of the organizations having traditional news platforms (TV and Print) may be following internal guidelines of the self-regulating bodies. Accordingly, it has been clarified vide a clarification dated 10.06.2021 that if the traditional media organizations so desire, they can request the same self-regulatory bodies to serve as the Level II of the self-regulatory mechanism, after ensuring consistency with the IT Rules, 2021. In this regard, it is submitted that the Rules carry forward the principle of self-regulation which is already functioning in respect of traditional media and creates a level playing field between online and offline media.

44. That with regard to the **Oversight Mechanism and the role of the Central Government**, it is pointed out that even at present, in respect of traditional TV channels, there is an oversight mechanism in the Government by way of an Inter-Ministerial Committee (IMC) which looks at certain grievances relating to the violation of the Programme Code, a mechanism which is in



existence since 2005. Over the last over 15 years, the IMC has given recommendations by way of Advisories, Warnings, etc in respect of a large number of cases involving content of both news and non-news channels in relation to the Programme Codes and in almost every such case, the TV channels have accepted the recommendations of this Committee. The IMC mechanism has stood the test of time. The concept of Inter Departmental Committee (IDC) is similar and does not lead to any interference or control of the central Government in the functioning of the digital media publishers. Furthermore, the oversight mechanism at Level III is visualized as a residual level, insofar as the grievances which do not get redressed at the first and second levels would go to the oversight mechanism.

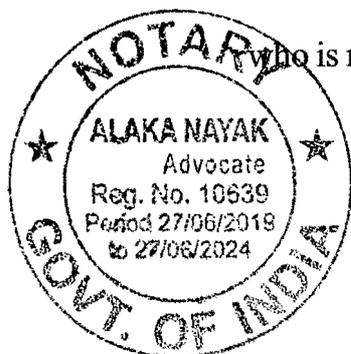
45. **Furnishing of information:** That the newspapers published in India are mandated to obtain title verification from the Registrar of Newspapers for India under the Press and Registration of Books Act 1867. The application for registration requires basic information about the entity which would be registered as a publisher. Similarly, licensing of television channels under the Cable Television Networks (Regulation) Act, 1994 requires the applicant to provide basic details about the broadcaster's entity. In this regard, it may be



mentioned that on digital media, no such prior registration or licensing is mandatory. Furthermore, given the low barriers to entry, multiple entities as well as individuals have entered into the domain of publishing news and current affairs content on digital media. Under the IT Rules, 2021, publishers are required to inform the Ministry about the details of their entity by furnishing information to the Ministry for the purpose of future communication and coordination. Such a provision not only ensures identification of the entities which publish news on digital media, but also enables the Ministry to transfer the grievances received from the general public to the concerned publisher.

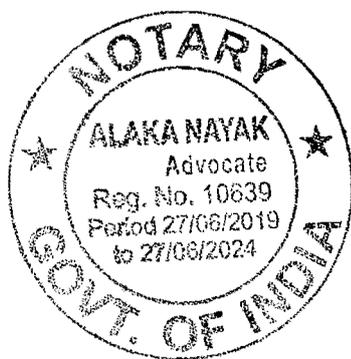
Part III not violative of the Fundamental Right of Freedom of Speech and Expression

46. That Part III of the IT Rules is applicable to news and current affairs content, and online curated content. These terms are specifically defined under the Rules. Furthermore, the Rules apply only to entities which publish news and current affairs content and online curated content as a systematic business activity. The definitions of ‘publisher of news and current affairs content’ and ‘publisher of online curated content’ expressly exclude any individual or user who is not transmitting content in the course of systematic business, professional

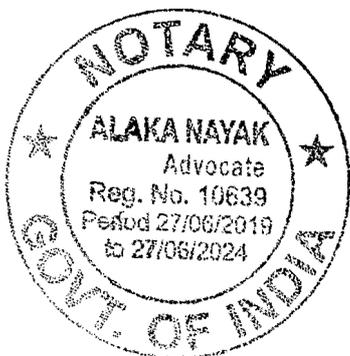


or commercial activity. The Hon'ble Supreme Court, in the Shreya Singhal judgement, held the Section 66A of IT Act to be unconstitutional on the ground that it casts the net very wide – “all information” disseminated over the internet was included within its reach. In this regard, it is submitted that Part III of the IT Rules is limited in scope, not directly pertaining to the freedom of speech of common citizens, but in the form of a normative standard for the commercial entities engaged in professional production and dissemination of content on digital media. The Rules are intended to ensure accountability of such entities towards the audience they serve.

47. That the Norms of Journalistic Conduct of the Press Council of India are an acceptable and well-established ethical standard for the print news media. Similarly, the Programme Code under section 5 of the Cable Television Networks Regulation) Act, 1995, is the standard for the television news media. These standards have also been recognized by the Courts, for example, in **Courts On Its Own Motion vs The Publisher**, while dealing with a suo-motu petition regarding media reporting on sub-judice matters, the Hon'ble High Court of Punjab and Haryana observed that:



“Press Council has issued Norms of Journalistic Conduct in 2010. It is noticed that the fundamental objective of journalism is to serve the people with news, views, comments and information on matters of public interest in a fair, accurate, unbiased and decent manner and language. The media today has assumed the foremost importance in society and governance. It is noticed that such is the influence of media that it can make or unmake any individual, institution or any thought. All pervasive and all powerful is the impact of media today on the society. This being the nature of power, the media cannot loose sight of its privileges, duties and obligations. **Media is mandated to follow certain ethics in collecting and disseminating the information that is to ensure authenticity of news, use of restrained and socially acceptable language for ensuring objectivity and fairness in reporting and keeping in mind**



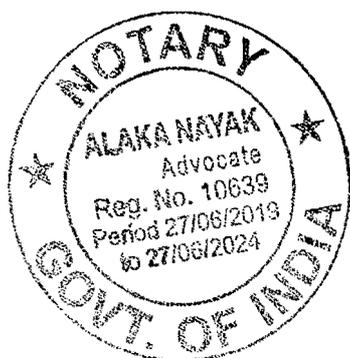
its cascading effect on the society and on the individuals and institutions.”

The Court further stated:

“As has been pointed out before me, it is not a case of lack of norms, but it is lack of compliance and lack of enforceability, due to absence of effective statutory powers and mechanism to enforce the norms. Lack of deterrent consequences is another reason for which the errant Journalists have on occasion been breaching the norms, which morally they are required to follow.”

The Court also observed that:

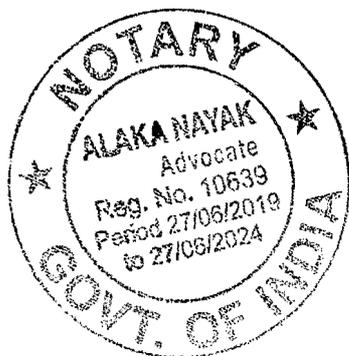
“Before concluding, I would wish to express that all the Publishers, Journalists and other media people ought to comply with the requirement, so as to avoid uncomfortable situation. Any violation of such norms may expose them to



reliability of proceedings under the Contempt of Courts Act.”

Similarly, in **Nilesh Navlakha vs. Union of India**, the Bombay High Court, while stating the guidelines to be followed by the press/media with respect to reporting of matters related to suicide, held that:

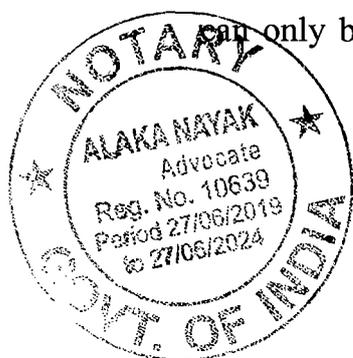
“350. These are not intended to be exhaustive but indicative, and **any report carried by the print media or a programme telecast by a TV channel, live or recorded, ought to be such so as to conform to the Programme Code, the norms of journalistic standards and the Code of Ethics and Broadcasting Regulations; in default thereof, apart from action that could be taken under the prevailing regulatory mechanism, the erring media house could make itself liable to face an action in contempt, i.e. criminal contempt within the meaning of section 2(c) of the CoC Act which, as and when initiated, would obviously have to be decided by the competent court on its own merits and in accordance with law.”**



(emphasis supplied)

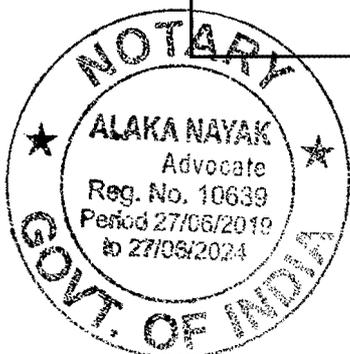
48. That in this regard, it is submitted that since digital news publishers publish content in textual as well as audio-visual format, the Code of Ethics under the Rules merely extends the existing standards and norms of traditional news media to apply for digital news publishers, without providing for any new restrictions or regulations. It is further submitted that such application of existing time-tested legal norms to be followed by digital media would not constitute an intrusion into the fundamental right to freedom of speech and expression of the digital news publishers.

49. That the Norms for Journalistic Conduct of the Press Council of India, have a broad scope and pertain not only to the news and current affairs content which is published by the newspapers, but also other aspects such as editors' discretion, pricing of newspapers, professional rivalries, internal disputes within the media organization, etc. Similarly, a common Programme Code has been provided under the CTN Act for news and non-news content. Some provisions of the Programme Code do not deal with news and current affairs content, but only be related to cable service providers or entertainment programmes.

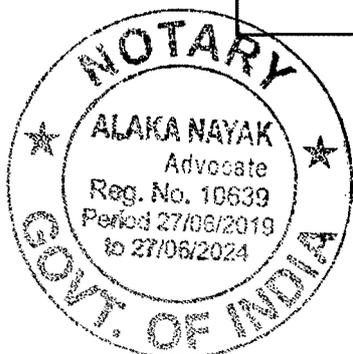


Since the Code of Ethics under the IT Rules, 2021 pertains specifically to the news and current affairs content on digital media, and does not regulate other aspects of the functioning of digital media publishers, it is submitted that only those mandatory provisions of the Norms of Journalistic Conduct which relate to the nature of news and current affairs content being published, are required to be mandatorily adhered to by the publishers in respect of the Code of Ethics for digital news publishers under the IT Rules, 2021. Similarly, the digital news publishers are required to observe the provisions of the Programme Code, which are related to news and current affairs content, as adherence to the Code of Ethics under the Rules. In this regard, it is stated and submitted that the Code of Ethics as applicable to the digital news publishers is strictly in accordance with the reasonable restrictions on the right to freedom of speech and expression under Article 19(2) of the Constitution. Furthermore, it is also submitted that the meaning of the various terms used in these norms has sufficiently evolved and narrowed down through the pronouncements of the Press Council of India under the Press Council Act.

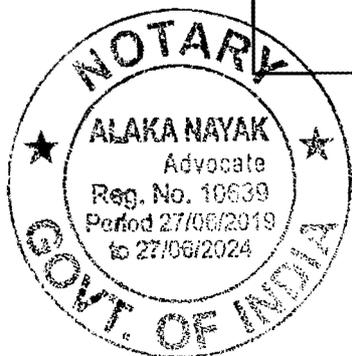
<p style="text-align: center;">Mandatory provision of the Norms of Journalistic Conduct</p>	<p style="text-align: center;">Relatable Constitutiona</p>
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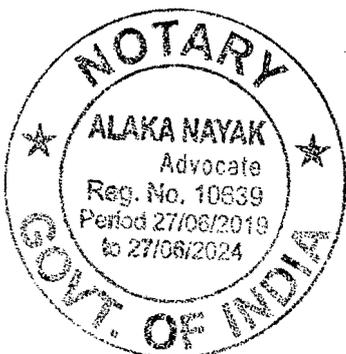
	I Ground
<p><u>Part A: Principles and Ethics</u></p> <p>1. Accuracy and Fairness</p> <p>i) The Press shall eschew publication of inaccurate, baseless, graceless, misleading or distorted material.</p> <p>v) Whenever any news is published on the basis of an FIR and is critical of the reputation of any person or body, the newspaper/journals must clearly state in the same news report that the report was only on the basis of the FIR and that veracity of the version of the FIR has got to be decided by the Court.</p> <p>xii) Freedom of speech does not give right to newspapers to write about an institution or individual untrue facts even in a lighter note.</p>	<p>Citizens right to correct information under 19(1)</p>



<p>xiii) An error attributing historically incorrect remarks of grave nature to an individual(s) shall not be made.</p>	
<p>4. Caste, Religion or Community References</p> <p>ii) Newspapers are advised against the use of word 'Harijan' which has been objected to by some, and shall use the word Schedule Caste as per Article 341. (Modified keeping in view of provision of Constitution of India, 1950)</p> <p>iii). An accused or a victim shall not be described by his caste or community when the same does not have anything to do with the offence or the crime and plays no part either in the identification of any accused or proceeding, if there be any.</p> <p>xvi) The word/expression "Dalit" shall not be used to provoke or demean a community.</p>	<p>Public order, decency, morality under 19(2)</p>



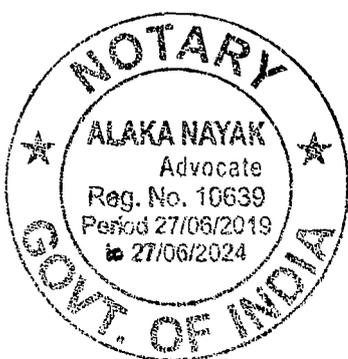
<p>5. Caution Against Defamatory Writings</p> <p>ii) Truth is no defence for publishing derogatory, scurrilous and defamatory material against a private citizen where no public interest is involved.</p> <p>v) The Press shall not rely on objectionable past behaviour of a citizen to provide the background for adverse comments with reference to fresh action of that person. If public good requires such reference, the Press should make prepublication inquiries from the authorities concerned about the follow up action, if any, in regard to earlier adverse actions.</p> <p>vi) Where the impugned publication is manifestly injurious to the reputation of the complainant, the onus shall be on the respondent to show that it was true or to establish that it constituted fair comment made in good faith and for public good.</p>	<p>Defamation under 19(2)</p>
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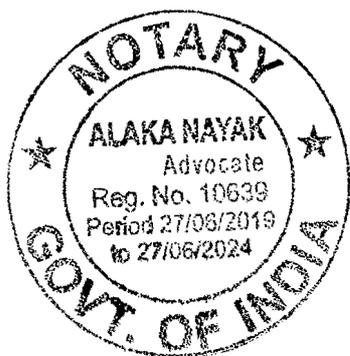
vii) Newspapers cannot claim privilege or licence to malign a person or body claiming special protection or immunity on the plea of having published the item as a satire under special columns such as '*gossip*', '*parody*' etc.

viii) Publication of defamatory news by one paper does not give licence to others to publish news/ information reproducing or repeating the same. The fact of publication of similar report by another publication does not bestow the status of accuracy on the charges.

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



<p><i>standi</i> to move complaints against a publication directly criticising the conduct of a leader.</p>	
<p>6. a) Caution in Criticising Judicial Acts</p> <p>i) Excepting where the court sits ‘in-camera’ or directs otherwise, it is open to a newspaper to report pending judicial proceedings, in a fair, accurate and reasonable manner. But it shall not publish anything:-</p> <ul style="list-style-type: none"> ● which, in its direct and immediate effect, creates a substantial risk of obstructing, impeding or prejudicing seriously the due administration of justice; or ● is in the nature of a running commentary or debate, or records the paper’s own findings conjectures, reflection or comments on issues, sub-judice and which may amount to 	<p>Contempt of Court under 19(2)</p>



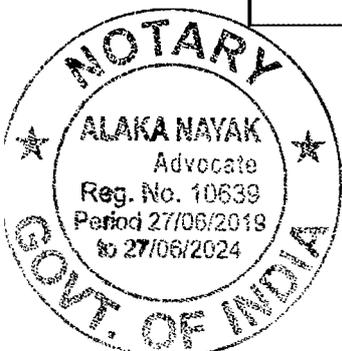
abrogation to the newspaper the functions of the court; or

- regarding the personal character of the accused standing trial on a charge of committing a crime.

ii) Newspaper shall not as a matter of caution, publish or comment on evidence collected as a result of investigative journalism, when, after the accused is arrested and charged, the court becomes seized of the case: Nor should they reveal, comment upon or evaluate a confession allegedly made by the accused.

iii) While newspapers may, in the public interest, make reasonable criticism of a judicial act or the judgement of a court for public good; they shall not cast scurrilous aspersions on, or impute improper motives, or personal bias to the judge.

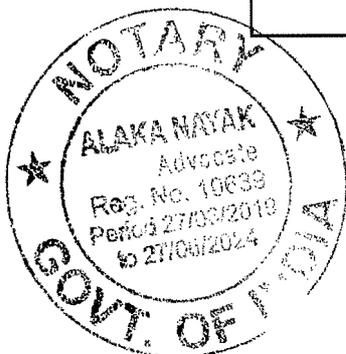
Nor shall they scandalise the court or the judiciary



<p>as a whole, or make personal allegations of lack of ability or integrity against a judge.</p> <p>iv) Newspaper shall, as a matter of caution, avoid unfair and unwarranted criticism which, by innuendo, attributes to a judge extraneous consideration for performing an act in due course of his/her judicial functions, even if such criticism does not strictly amount to criminal Contempt of Court.</p>	
<p>9. Corrections</p> <p>i) When any factual error or mistake is detected or confirmed, the newspaper should suo-motu publish the correction promptly with due prominence and with apology or expression of regrets in a case of serious lapse.</p>	<p>Citizens right to correct information under 19(1)</p>



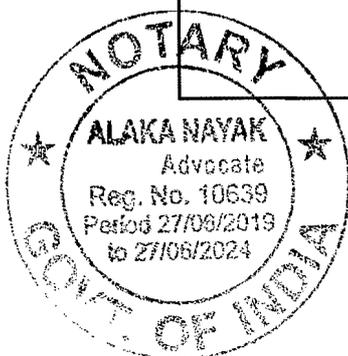
<p>ii) The correction and apology or expression of regrets shall be published in the same edition of newspapers with due prominence.</p>	
<p>10. Covering Communal Disputes/Clashes</p> <p>i) News, views or comments relating to communal or religious disputes/clashes shall be published after proper verification of facts and presented with due caution and restraint in a manner which is conducive to the creation of an atmosphere congenial to communal harmony, amity and peace. Sensational, provocative and alarming headlines are to be avoided. Acts of communal violence or vandalism shall be reported in a manner as may not undermine the people's confidence in the law and order machinery of the State. Giving community-wise figures of the victims of communal riot, or writing about the incident in a style which is likely to inflame</p>	<p>Public order, incitement to offence under 19(2)</p>



<p>passions, aggravate the tension, or accentuate the strained relations between the communities/religious groups concerned, or which has a potential to exacerbate the trouble, shall be avoided.</p>	
<p>16. Glorification/Encouragement of Social Evils to be Eschewed</p> <p>Newspapers shall not allow their columns to be misused for writings which have a tendency to encourage or glorify social evils like Sati Pratha or ostentatious celebrations</p>	<p>Decency, Morality, incitement to offence under 19(2)</p>
<p>19. Illegal Reproduction</p> <p>i) The Press shall not reproduce in any form offending portions or excerpts from a proscribed book.</p>	<p>Proscription of the book already on grounds covered under 19(2)</p>



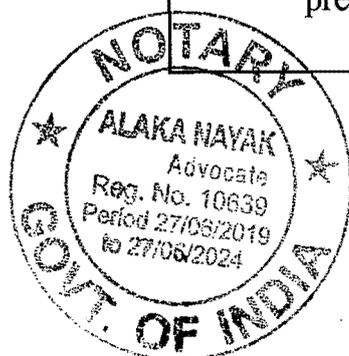
<p>28. Obscenity and Vulgarly to be Eschewed</p> <p>i) Newspapers/journalists shall not publish anything which is obscene, vulgar or offensive to public good taste.</p> <p>ii) Newspapers shall not display advertisements which are vulgar or which, through depiction of a woman in nude or lewd posture, provoke lecherous attention of males as if she herself was a commercial commodity for sale.</p> <p>iii) Whether a picture is obscene or not, is to be judged in relation to three tests; namely</p> <ol style="list-style-type: none"> a. Is it vulgar and indecent? b. Is it a piece of mere pornography? c. Is its publication meant merely to make money by titillating the sex feelings of adolescents and among whom it is intended to circulate? In other words, 	<p>Morality, decency under 19(2)</p>
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<p>does it constitute an unwholesome exploitation for commercial gain. Other relevant considerations are whether the picture is relevant to the subject matter of the magazine. That is to say, whether its publication serves any preponderating social or public purpose, in relation to art, painting, medicine, research or reform of sex.</p>	
<p>30. Parameters of Right of Press to Comment on Profession</p> <p>No newspaper(s)/columnist(s) shall abuse any profession, under the garb of freedom of speech/expression which is guaranteed under the Indian Constitution, since freedom of speech is not absolute.</p>	<p>Morality, decency, public order under 19(2)</p>



<p>31. Parameters of the Right of the Press to Comment on the Acts and Conduct of Public Officials</p> <p>iv) The Official Secrets Act, 1923 or any other similar enactment or provision having the force of law equally bind the press or media though there is no law empowering the state or its officials to prohibit, or to impose a prior restraint upon the Press/Media.</p>	<p>Official Secrets Act already based on grounds such as sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, etc.</p>
<p>32. Paramount National Interest</p> <p>i) Newspapers shall, as a matter of self-regulation, exercise due restraint and caution in presenting any news, comment or information</p>	<p>Sovereignty and integrity of India, the security of the</p>

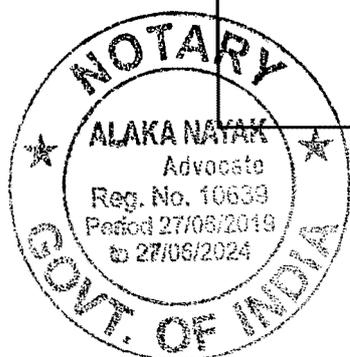


which is likely to jeopardise, endanger or harm the paramount interests of the State and society, or the rights of individuals with respect to which reasonable restrictions may be imposed by law on the right to freedom of speech and expression under clause (2) of Article 19 of the Constitution of India.

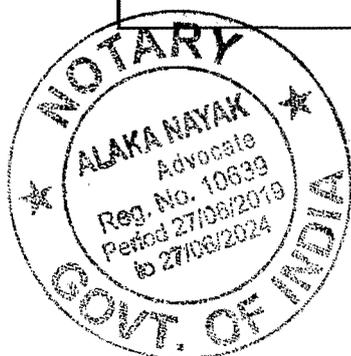
ii) Publication of wrong/incorrect map is a very serious offence. It adversely affects the territorial integrity of the country and warrants prompt and prominent retraction with regrets.

iii) Though the sources normally used are not to be disclosed, however, in case of serious allegations where matter is related to national interest and security it is incumbent/imperative/mandatory on part of the press to establish the authenticity of information given by the source.

State, friendly relations with foreign States, public order, etc. under 19(2)



<p>38. Recording Interviews and Phone Conversation</p> <p>ii) The Press shall, prior to publication, delete offensive epithets used during such conversation.</p>	<p>Decency, morality under 19(2)</p>
<p>39. Reporting on Natural Calamities</p> <p>(i) Facts and data relating to spread of epidemics or natural calamities shall be checked up thoroughly from authentic sources and then published with due restraint in a manner bereft of sensationalism, exaggeration, surmises or unverified facts.</p>	<p>Public order under 19(2)</p>
<p>42. Right to Privacy</p> <p>i) The Press shall not intrude or invade the privacy of an individual, unless outweighed by genuine overriding public interest, not being a prurient or morbid curiosity. So however, that once a matter becomes a matter of public record,</p>	<p>Decency, morality under 19(2)</p>

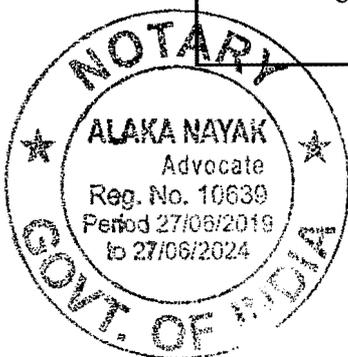


the right to privacy no longer subsists and it becomes a legitimate subject for comment by the Press and the Media, among others.

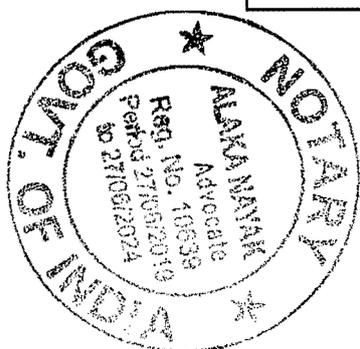
Explanation: Things concerning a person's home, family, religion, health, sexuality, personal life and private affairs are covered by the concept of PRIVACY excepting where any of these impinges upon the public or public interest.

ii) **Caution against Identification:** While reporting crime involving rape, abduction or kidnap of women/females or sexual assault on children, or raising doubts and questions touching the chastity, personal character and privacy of women, the names, photographs of the victims or other particulars directly or indirectly* leading to their identity shall not be published.

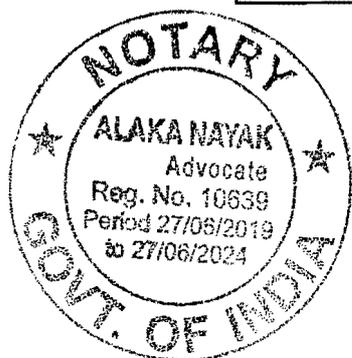
iii) Minor children and infants who are the offspring of sexual abuse or 'forcible marriage' or



<p>illicit sexual union shall not be identified or photographed.</p> <p>vii) Publishing person's address in a newspaper which has no direct relevance to the news report, is a violation of his right to privacy.</p> <p>viii) Publishing photograph of police constable resting in barrack after duty hours, to portray his shirking from duty not only constitute invasion of his privacy but also unethical.</p>	
<p><u>Part B : Guidelines on Specific Issues</u></p> <p>e) Election Reporting-1996</p> <p>ii) Guidelines on 'Pre-poll' and 'Exit-polls' Survey-1996</p> <p>1. In the event of staggered poll dates, the media is seen to carry exit-poll surveys of the polls already held. This is likely to influence the voters where</p>	<p>Public order under 19(2)</p>



<p>the polling is yet to commence. With a view to ensure that the electoral process is kept pure and the voters' minds are not influenced by any external factors, it is necessary that the media does not publish the exit poll surveys till the last poll is held.</p> <p>2. The Press Council, therefore, requests the Press to abide by the following guideline in respect of the exit polls:</p> <p>Guideline:</p> <p>No newspaper shall publish exit-poll surveys, however, genuine they may be, till the last of the polls is over.</p>	
<p>k) Guidelines for Protection of Child Rights:</p> <ul style="list-style-type: none"> • Always provide an accurate context for the child's story or image. 	<p>Decency, morality under 19(2)</p>



- Always change the name and obscure the visual identity of any child who is identified as:
 - i. A victim of sexual abuse or exploitation,
 - ii. A perpetrator of physical or sexual abuse,
 - iii. HIV positive, or living with AIDS, unless the child, a parent or a guardian gives fully informed consent,
 - iv. Charged or convicted of a crime.

In certain circumstances of risk or potential risk of harm or retribution, change the name and obscure the visual identity of any child who is identified as:

- i. A current or former child combatant,



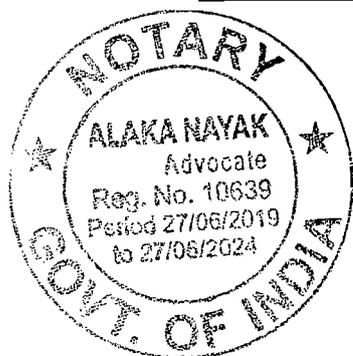
- ii. An asylum seeker, a refugee or an internal displaced person,

o) Reporting on Information regarding Mental Health Patients

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

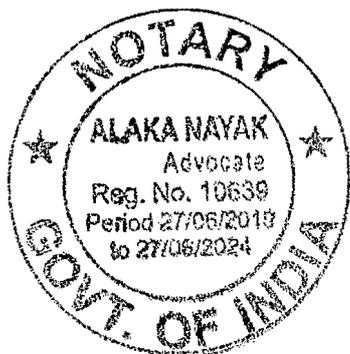
p) Reporting on Suicide: Newspapers and news agencies while reporting on suicide cases shall not:

1. Publish stories about suicide prominently and unduly repeat such stories;
2. use language which sensationalize or normalizes suicide, or presents it as a constructive solution to problems;
3. explicitly describe the method used;

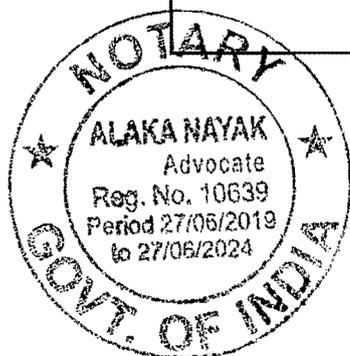


<p>4. provide details about the site/location;</p> <p>5. use sensational headlines;</p> <p>6. use photographs, video footage or social media links.</p>	
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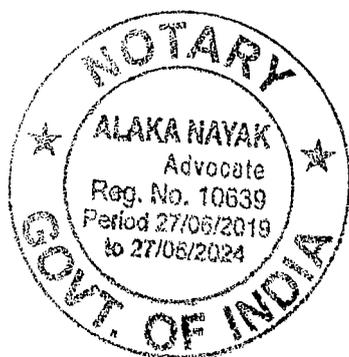
Provisions of Programme Code as applicable to news and current affairs content	Relatable Constitutional Ground
<p>Rule- 6. Programme Code. – (1) No programme should be carried in the cable service which:-</p> <p>(b) Contains criticism of friendly countries;</p>	<p>Friendly relations with foreign States under 19(2)</p>
<p>(c) Contains attack on religions or communities or visuals or words contemptuous of religious groups or which promote communal attitudes;</p>	<p>public order, decency, morality under</p>



	19(2)
(d) Contains anything obscene, defamatory, deliberate, false and suggestive innuendos and half truths;	Decency, morality under 19(2)
(e) is likely to encourage or incite violence or contains anything against maintenance of law and order or which promote anti-national attitudes;	Public order, incitement to offence under 19(2)
(f) Contains anything amounting to contempt of court;	Contempt of Court under 19(2)
(g) Contains aspersions against the integrity of the President and Judiciary; (h) Contains anything affecting the integrity of the Nation	Contempt of Court, sovereignty and integrity of India, under



	19(2)
(i) Criticises, maligns or slanders any individual in person or certain groups, segments of social, public and moral life of the country;	Defamation under 19(2)
(j) Encourages superstition or blind belief	public order, decency, morality under 19(2)
(k) Denigrates women through the depiction in any manner of the figure of a women, her form or body or any part thereof in such a way as to have the effect of being indecent, or derogatory to women, or is likely to deprave, corrupt or injure the public morality or morals; (l) Denigrates children;	decency, morality under 19(2)



50. The Programme Code under the Cable Television Networks (Regulation) Act, 1994 pertains to audio-visual content. While the Courts, in recent times, have pointed out in several cases that the impact of sensationalism of television news can be harmful for a democratic society, the risk is further accentuated on the digital media due to the factors such as permanence on the internet, and the potential of the content to be shared at a rapid pace. A higher impact of audio-visual content on the minds of the audience was also recognized by the Hon'ble Supreme Court in **K. A. Abbas vs The Union of India** whereby the Court, while deciding on the subject of pre-censorship in films, held that owing to the effects of audio-visual content, its treatment must be different from other forms of free speech. In this regard, the Court stated that:

“censorship of films including prior restraint is justified under the Constitution. It has been almost universally recognised that the treatment of motion pictures must be different from that of other forms of art and expression.”

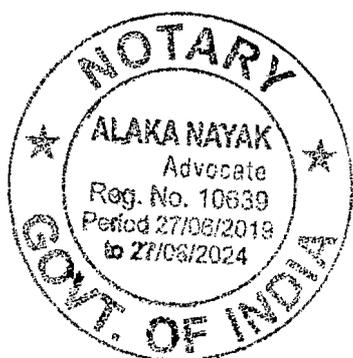
The Court, in the above case, further held that:

“The motion picture is able to stir up emotions more deeply than any other product of art. Its

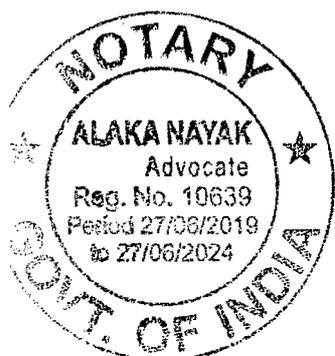


effect particularly on children and adolescents is very great since their immaturity makes them more willingly suspend their disbelief than mature men and women. They also remember the action in the picture and try to emulate or/ imitate what they have seen. Therefore, classification of films into two 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 bearing 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)



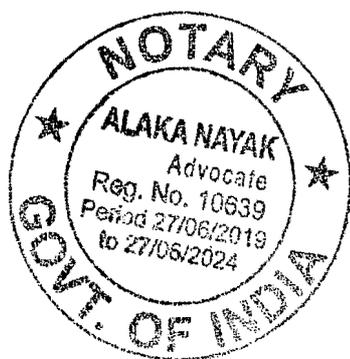
51. That in this regard, it is submitted that the impact of news content on the minds of the viewer is even higher than that of fictional content as in the case of films. The news content deals with presentation of real world instances which can be more intimately related to by the audience. The persuasive effect of a content, when presented in the form of news, is several fold higher than when it is in the form of a fictional film. Therefore, even greater care may be required in case of handling the sensitive news content. The consequences of fake and misleading audio-visual news on digital media has in the recent past led to deaths of innocent people on false pretexts such as in the case of rumours of child lifters, loss of lives of innocent migrant workers during the pandemic induced lockdown, risk of social strife and communal tensions in the society due to sensationalist reportage of religious congregations in the context of the pandemic, etc. Therefore, it is submitted that the standards for testing audio-visual news content on the touchstone of right to freedom of speech and expression may be different from those for other forms of free speech. The rules only empower the audience to bring to the notice of the publishers such content which may be violative of the Code of Ethics. Even in such situations, any consequent action is possible only under stringent grounds and as per established procedure. Hence, it is respectfully submitted that the Programme Code under



Cable TV Networks Act is specific enough to pass muster under the test of reasonableness.

52. **Presence of Experts in the Grievance Redressal Mechanism:** That at both second and third tiers of the grievance redressal mechanism, the rules provide for involvement of experts from the field of media. The self-regulating body is headed by a retired judge of the Supreme Court or the High Court, or an independent eminent person from the field of media, broadcasting, entertainment, child rights, human rights, etc, and consists of six other experts from such fields. The Inter-Departmental Committee at the third tier involves domain experts along with the representatives from Ministries/Departments and other organizations. The significance of experts was highlighted by the Hon'ble Supreme Court in **K. A. Abbas vs The Union Of India** in the context of guidelines for film certification. The Supreme Court held:

“It is clear that expressions like 'seduction', 'immoral traffic in women', soliciting prostitution or, procurement', 'indelicate sexual situation' and scenes suggestive of immorality', 'traffic and use of drugs', 'class hatred', 'blackmail

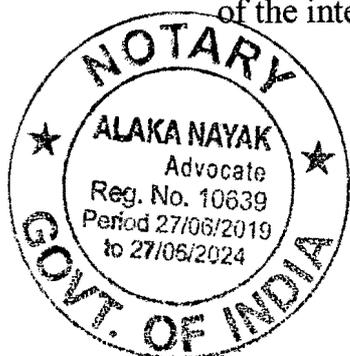


associated with immorality' are **within the understanding of the average men and more so of persons who are likely to be the panel for purposes of censorship. Any more definiteness is not only not expected but is not possible.**"

(emphasis supplied)

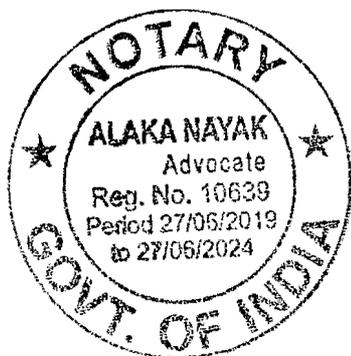
53. That in this regard, it is submitted that the terms used in the mandatory norms provided under the Norms of Journalistic Conduct, and the applicable provisions of the Programme Code are definite enough to be understood and appropriately interpreted both by the self-regulating body and the Inter-Departmental Committee having membership of the experts within their composition, and do not impinge upon the right to freedom of speech and expression of the digital news publishers.

54. That the dissemination of news and current affairs over the internet is essentially public communication. In this regard, it is unique and different from private communication in its impact on the wider society. The unique features of the internet, such as enabling rapid sharing of information within the society



and permanence of the content once published, further increase the risk posed by problematic content over the internet to the maintenance of public order. The difference between mass dissemination and private communication has already been recognized by the Hon'ble Supreme Court in the *Shreya Singhal* judgement:

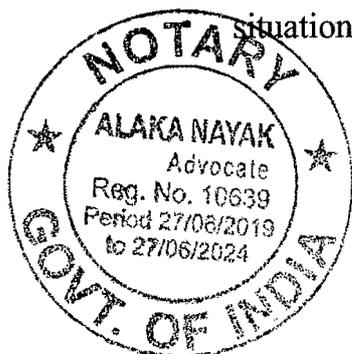
“We have to ask ourselves the question: does a particular act lead to disturbance of the current life of the community or does it merely affect an individual leaving the tranquility of society undisturbed? Going by this test, it is clear that Section 66A is intended to punish any person who uses the internet to disseminate any information that falls within the sub-clauses of Section 66A. It will be immediately noticed that the recipient of the written word that is sent by the person who is accused of the offence is not of any importance so far as this Section is concerned. (Save and except where under sub-clause (c) the addressee or recipient is deceived



or misled about the origin of a particular message.) It is clear, therefore, that the information that is disseminated may be to one individual or several individuals. **The Section makes no distinction between mass dissemination and dissemination to one person. Further, the Section does not require that such message should have a clear tendency to disrupt public order. Such message need not have any potential which could disturb the community at large.”**

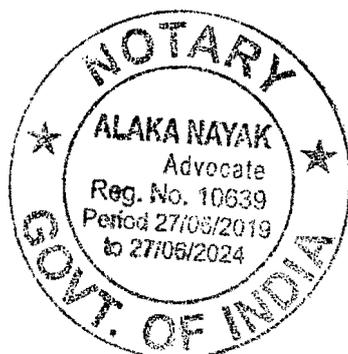
(emphasis supplied)

55. That there have been past incidents of disinformation on digital media leading to disturbance of public order. In this regard, attention is again drawn to the observations of the Hon'ble Supreme Court in **Alakh Alok Srivastava vs. Union of India** highlighting the panic caused among migrant workers during the COVID-19 pandemic as a result of factually incorrect reporting. Similar situations have previously also occurred during reporting of communal clashes,



terrorist attacks, etc. In this regard, Article 19(2) of the Constitution provides for reasonable restrictions on free speech in the interest of 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. With respect to the linkage between fake news and mob violence, the Hon'ble Supreme Court, in **Tehseen S Poonawala vs. Union of India**, held that:

24. Lynching and mob violence are creeping threats that may gradually take the shape of a Typhon-like monster as evidenced in the wake of the rising wave of incidents of recurring patterns by frenzied mobs across the country instigated by intolerance and misinformed by circulation of fake news and false stories. There has been an unfortunate litany of spiralling mob violence and agonized horror presenting a grim and gruesome picture that compels us to reflect whether the populace of a great Republic like ours has lost the values of tolerance to sustain a diverse culture.

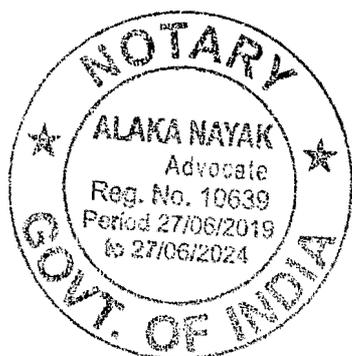


Besides, bystander apathy, numbness of the mute spectators of the scene of the crime, inertia of the law enforcing machinery to prevent such crimes and nip them in the bud and grandstanding of the incident by the perpetrators of the crimes including in the social media aggravates the entire problem. One must constantly remind oneself that an attitude of morbid intolerance is absolutely intolerable and agonizingly painful.

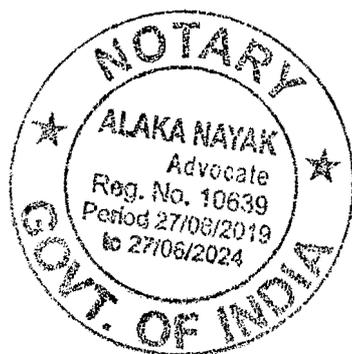
(emphasis supplied)

56. That in line with the reasonable restrictions and the principle of balancing of rights, several types of speech have been restricted under various laws of the country. Some examples in this regard are as follows:

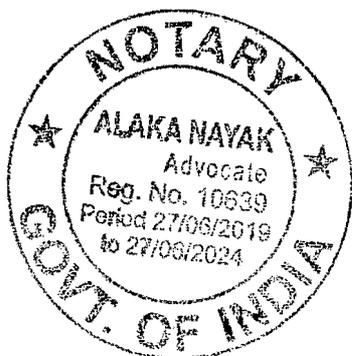
- i. The Indian Penal Code, 1860
 - a. Section 124A: Sedition
 - b. Section 153A: Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc. and doing acts prejudicial to maintenance of harmony



- c. Section 295A: Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs
 - d. Section 505: Statements conducing to public mischief
 - e. Section 292: Sale, etc., of obscene books, etc.
 - f. Section 293: Sale, etc., of obscene objects to young person
 - g. Section 228A: Disclosure of identity of the victim of certain offences etc
 - h. Section 499: Defamation
- ii. The Indecent Representation of Women (Prohibition) Act, 1986:
 - a. Section 3: Prohibition of advertisements containing indecent representation of women
 - b. Section 4: Prohibition of publication or sending by post of books, pamphlets, etc., containing indecent representation of women
 - iii. The Copyright Act, 1957: Section 51(1)(a)(ii) related to infringement of copyright
 - iv. The Contempt of Courts Act, 1971
 - v. The Representation of the People Act, 1951: Section 126A related to restriction on publication and dissemination of results of exit polls, etc.

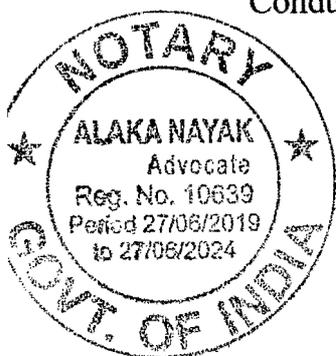


- vi. Prevention of Insults to National Honour Act, 1971: Section 2 related to insults to Indian National Flag and Constitution of India
- vii. The Official Secrets Act, 1923: Section 5 related to Wrongful communication, etc. of information
- viii. The Criminal Law Amendment Act, 1961: Section 2 dealing with speech questioning the territorial integrity or frontiers of India in a manner prejudicial to the interests of safety and security of India
- ix. The Emblems and Names (Prevention of Improper Use) Act, 1950: Section 3 pertaining to prohibition of improper use of certain emblems and names
- x. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989: Section 3 related to punishments for offences of atrocities
- xi. The Protection of Civil Rights Act, 1955: Section 7(1)(c) related to punishment for other offences arising out of "untouchability"
- xii. Protection of Children from Sexual Offences Act, 2012:
 - a. Section 13: Use of child for pornographic purposes
 - b. Section 14: Punishment for using child for pornographic purposes
 - c. Section 15: Punishment for storage of pornographic material involving child



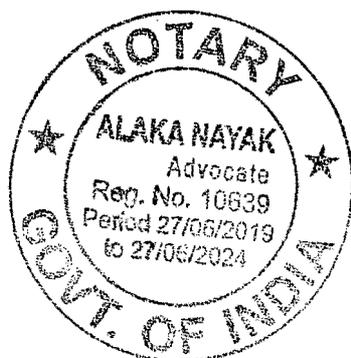
57. That the aforementioned laws of the land apply to all individuals and legal entities, including the publishers on digital media. In this regard, the Code of Ethics does not apply any new restrictions but only reiterates that the content which has already been prohibited under any law for the time being in force not to be published on digital media. In this regard, it is submitted that many of the above laws have been upheld by various Courts of law, including the Hon'ble Supreme Court, and a mere repetition of the same by the Code of Ethics is not an infringement into the right to freedom of speech and expression of the publishers on digital media.

58. That the provisions similar to the above mentioned laws also exist in the Norms of Journalistic Conduct, and the Programme Code which constitute the Code of Ethics under the IT Rules. These provisions are intended to safeguard the rights of the persons who are reported about in news; rights of the audience which reads, views or shares the content; while simultaneously being sensitive to the wider society, with a special emphasis on the concerns related to the vulnerable sections. Some illustrative examples from the Norms of Journalistic Conduct, 2019 in this regard are as follows:



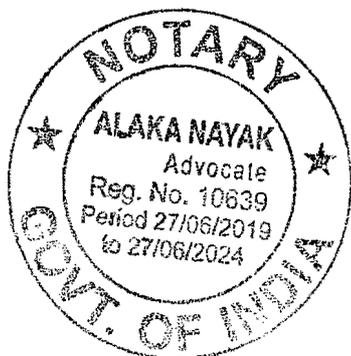
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- An accused or a victim shall not be described by his caste or community when the same does not have anything to do with the offence or the crime and plays no part either in the identification of any accused or proceeding, if there be any.
- The word/expression “Dalit” shall not be used to provoke or demean a community.
- Truth is no defence for publishing derogatory, scurrilous and defamatory material against a private citizen where no public interest is involved.
- The Press shall not rely on objectionable past behaviour of a citizen to provide the background for adverse comments with reference to fresh action of that person.
- Newspapers cannot claim privilege or licence to malign a person or body claiming special



protection or immunity on the plea of having published the item as a satire under special columns such as 'gossip', 'parody' etc.

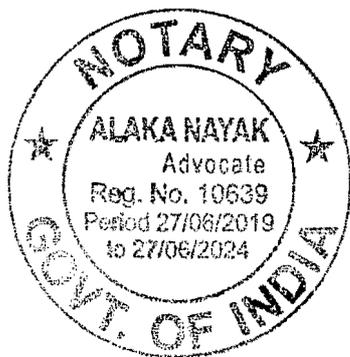
- Excepting where the court sits 'in-camera' or directs otherwise, it is open to a newspaper to report pending judicial proceedings, in a fair, accurate and reasonable manner. But it shall not publish anything:-
 - which, in its direct and immediate effect, creates a substantial risk of obstructing, impeding or prejudicing seriously the due administration of justice; or
 - is in the nature of a running commentary or debate, or records the paper's own findings conjectures, reflection or comments on issues, sub-judice and which may amount to abrogation to the newspaper the functions of the court; or



- regarding the personal character of the accused standing trial on a charge of committing a crime.
- Corrections:
 - When any factual error or mistake is detected or confirmed, the newspaper should suo-motu publish the correction promptly with due prominence and with apology or expression of regrets in a case of serious lapse.
 - The correction and apology or expression of regrets shall be published in the same edition of newspapers with due prominence.”

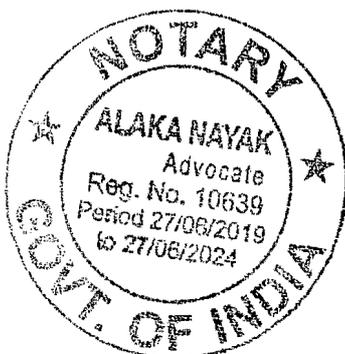
59. That similarly, illustrative examples from the Programme Code under Cable Television Networks (Regulation) Act are as follows:

“Rule- 6. Programme Code. – (1) No programme should be carried in the cable service which:-



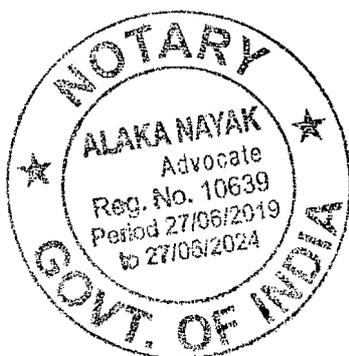
provides that no programme should be carried which:-

- contains criticism of friendly countries;
- contains attack on religions or communities or visuals or words contemptuous of religious groups or which promote communal attitudes;
- contains anything obscene, defamatory, deliberate, false and suggestive innuendos and half truths;
- is likely to encourage or incite violence or contains anything against maintenance of law and order;
- contains anything amounting to contempt of court;
- contains aspersions against the integrity of the President and Judiciary;
- contains anything affecting the integrity of the Nation;



- criticises, maligns or slanders any individual in person or certain groups, segments of social, public and moral life of the country;
- encourages superstition or blind belief;

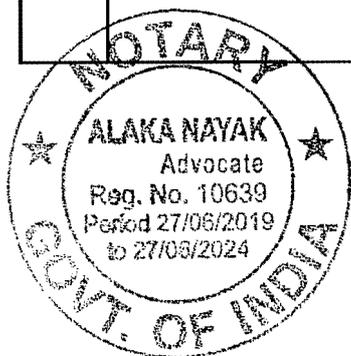
60. That the IT Rules, 2021 establish a civil mechanism of grievance redressal related to the Code of Ethics. Such a mechanism is bereft of any police powers. The entire grievance redressal procedure is civil in nature, and any decision regarding violation of the Code of Ethics does not lead to any criminal punishment. The decision on whether a particular content is violative of the Code of Ethics is a deliberative one involving the publisher, their representative self-regulating bodies, and the Government. The publisher has the opportunity to express and defend itself at all the three levels of the grievance redressal mechanism. In this regard, it is respectfully submitted that the Rules establish a soft-touch co-regulatory mechanism for redressal of public grievances related to the alleged violation of the Code of Ethics, protect the publishers on digital media from criminal proceedings, and therefore do not lead to any chilling effect on the freedom of speech of the publishers.



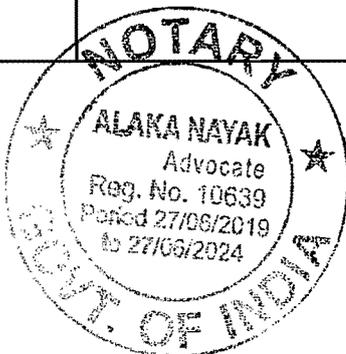
61. That the petitions have argued that the IT Rules would lead to a situation of over-regulation due to the onerous obligation of responding to many complaints thereby leading to diversion of resources and an adverse impact on the production of content. It has also been argued by petitioners that the requirement of the publisher defending itself before multiple levels would lead to self-censoring and a chilling effect on free speech. In this regard, it is submitted that no such evidence has yet been placed before the Government showing that the Rules have led to a large number of grievances being filed and subsequently appealed by the audience. Multiple grievances related to a particular content can be clubbed together and redressed through a single decision. In this regard, an analysis was also done with regard to the content produced by some news publishers over a 30-day period before and after the notification of the rules, and another recent 30-day period from 9th June 2021 to 8th July 2021, shows that there has not been any significant change in the production of content by some of its members due to the alleged grievances. The details in this regard are placed hereunder:

Content Pages Created on the Website of News Publishers

Sl.	TV Channel (website)	27 Jan,	26 Feb,	9 June



No.		2021- 25 Feb, 2021	2021- 27 Mar, 2021	2021 - 8 July 2021
1.	Times Now https://www.timesnownews.com/	10.7 K	10.7 K	12.2 K
2.	AajTak https://www.aajtak.in/	10.5 K	10.6 K	10.5 K
3.	NDTV https://www.ndtv.com/	4.73 K	4.79 K	5.08 K
4.	News 18 https://www.news18.com	17.5 K	13.4 K	16.6 K
5.	Zee News https://zeenews.india.com/	7.29 K	7.14 K	17.6 K
6.	India Today https://www.indiatoday.in/	8.76 K	12.4 K	11.7 K
7.	Mathrubhumi https://www.mathru	11.1 K	11.1 K	11.4 K

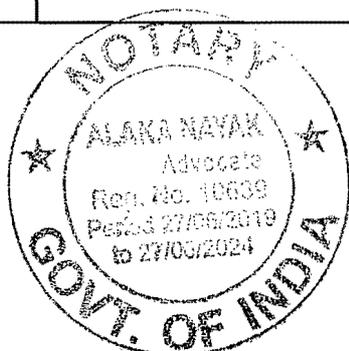


	bhumi.com/			
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62. Similarly, an analysis of the number of tweets posted by the above mentioned entities on social media platform Twitter for the purpose of dissemination of news content, during the same period, is placed hereunder:

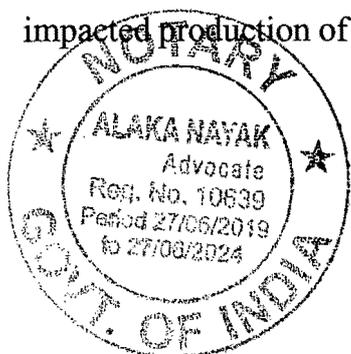
Tweets (Approx. number) Posted by Twitter Accounts of News Publishers

Sl. No.	TV Channel (Twitter account)	27 Jan, 2021- 25 Feb, 2021	26 Feb, 2021- 27 Mar, 2021	9 June 2021 - 8 July 2021
1.	Times Now https://twitter.com/TimesNow	10.6 K	13.1 K	11.1 K
2.	AajTak https://twitter.com/aajtak	19.7 K	22.1 K	20.1 K
3.	NDTV https://twitter.com/ndtv	26.3 K	25.8 K	29.6 K



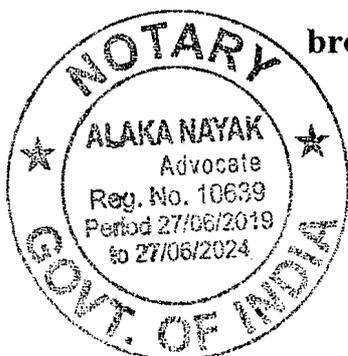
4.	News 18 https://twitter.com/CNNnews18	6.87 K	7.03 K	6.2 K
5.	Zee News https://twitter.com/ZeeNewsEnglish	3.56 K	3.52 K	3.97 K
6.	India Today https://twitter.com/IndiaToday	8.8 K	9.21 K	9.61 K
7.	Mathrubhumi https://twitter.com/mathrubhumi	4.8 K	5.15 K	4.02 K

63. That the above analysis indicates that there has been no discernible impact on the production of content by these entities even after the notification of the Rules. In fact, in the case of many entities, the production of content has increased. In this regard, it is submitted that the obligations under the Rules are reasonable and there exists no factual evidence to indicate that the obligations require any significant diversion of resources by the publishers that may have impacted production of news and current affairs content by the news publishers.



64. That over 1,800 digital media publishers, over 97% of them being publishers of news and current affairs content, have appointed a Grievance Redressal Officer (Level-I), and furnished their information to the Ministry. None of these publishers, who have been able to establish communication with the Ministry, have expressed any difficulty arising out of the number of grievances which are being received/redressed by them. Additionally, the publishers have the liberty to appoint any of their existing employees as the Grievance Redressal Officer for the purpose of the Rules. Moreover, in relation to Level II of the grievance redressal mechanism, many publishers have also expressed their willingness to constitute their self-regulatory bodies. In this regard, Hon'ble Supreme Court, in **Anuradha Bhasin vs Union of India (2020)**, has held that:

“...to say that the aforesaid restrictions were unconstitutional because it has a chilling effect on the freedom of press generally is to say virtually nothing at all or is saying something that is purely speculative, unless evidence is brought before the Court to enable it to give a



clear finding, which has not been placed on record in the present case. [refer to Clapper v Amnesty Int'l, USA, 568 U.S. 113 (2013)]

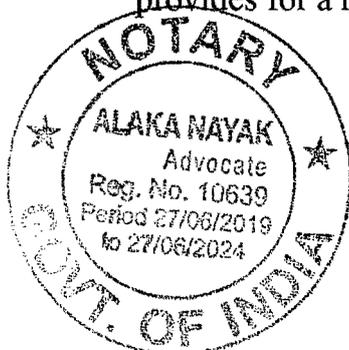
151. In this context, one **possible test of chilling effect is comparative harm. In this framework, the Court is required to see whether the impugned restrictions, due to their broadbased nature, have had a restrictive effect on similarly placed individuals during the period. It is the contention of the Petitioner that she was not able to publish her newspaper from 06.08.2019 to 11.10.2019. However, no evidence was put forth to establish that such other individuals were also restricted in publishing newspapers in the area. Without such evidence having been placed on record, it would be impossible to distinguish a legitimate claim of chilling effect from a mere emotive argument for a self-serving purpose.”**



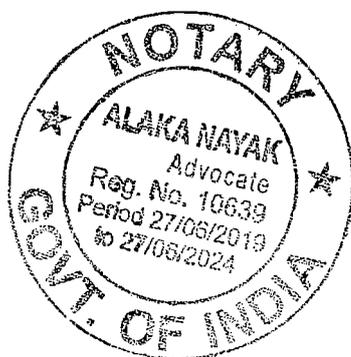
(emphasis supplied)

65. That based on the statistics related to content production and dissemination by the news publishers, and lack of any factual evidence related to overwhelming of publishes with grievances, it is submitted that the argument of chilling effect on freedom of the press or an adverse impact on the right to conduct business due to allegedly onerous obligations under the Rules is largely an emotive appeal, and is not legally tenable.

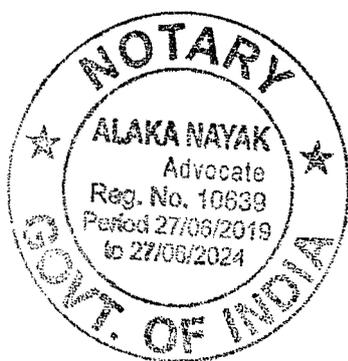
66. That it is further submitted that Norms of Journalistic Conduct as well as the Programme Code have been traditionally observed by the print and television media respectively since over a quarter of a century. With the observance of these norms, today India has a rich plural media with thousands of daily newspapers and over 400 television news channels. Furthermore, studies suggest that prevalence of fake news on digital media is far greater than in the traditional print and television media. In this regard, it is submitted that application of these norms to digital news publishers does not intrude into the freedom of speech and expression of the digital news publishers, but only provides for a mechanism of accountability.



67. **Need for grievance Redressal Mechanism:** That the digital news publishers conduct the profession of dissemination of news and current affairs content. In this regard, the content produced by them, though protected by the right to freedom of speech under Article 19, can not be deemed to be beyond any realm of challenge or question. The commercial dimension of the digital media platforms, in the form of subscription or advertising revenues or in the form of processing of data of the audience, and even in the form of donations, is, among other factors, related to the credibility, truthfulness, presentation and timeliness of the content. The significance of a feedback mechanism for corrective action by the news publisher is even more critical due to the sensitive nature and potentially large impact of such content on the society. In this regard, the Rules establish such a mechanism by empowering the audience, whether a subscriber or a user, to be able to report specific aspects which may be violative of the Code of Ethics in relation to the content published by the publishers. The significance of a complaint redressal mechanism has been recognized by the Hon'ble Supreme Court in **Common Cause vs. Union of India**, whereby the Court held that:



“10. Having given our thoughtful consideration, to the submissions advanced at the hands of the learned counsel for the rival parties, we are satisfied in concluding that **there is indeed an existing mechanism, as has been referred to by the learned counsel representing the Union of India.** However, the above mechanism, is not known to the general public. We are therefore of the view, that the same needs adequate publication. We, therefore, hereby direct the **Union of India, to publish the mechanism, which has been brought to our notice, and is partly extracted hereinabove. This would enable complainants, to air their grievances, before the appropriate forum and to obtain a determination thereof, at the hands of the concerned Competent Authority, in the Ministry of Information and Broadcasting.**



Furthermore, the Court also recommended that a formal mechanism for redressal of complaints may be established. In this regard, the Court observed:

11. Even though we have concluded in the manner recorded hereinabove, we are of the view, that the Central Government, having framed Rules in the nature of Cable Television Networks Rules, 1994, would be well advised, to frame similar Rules, in exercise of the power vested with it under Section 22 of the Cable Television Networks (Regulation) Act, 1995, to formalize the complaint redressal mechanism, including the period of limitation within which a complaint can be filed, and the concerned statutory authority which shall adjudicate upon the same, including the appellate and other redressal mechanisms, leading to a final conclusive determination....”

(emphasis supplied)



68. That in this regard, it is submitted that in the spirit of the recommendation from the Hon'ble Supreme Court, and while considering the unique nature of digital media, the IT Rules establish a formal mechanism for complaint redressal related to content published on digital media.

69. That the provisions related to the grievance redressal mechanism are in consonance with the spirit of the **public's right to know** under the right to free speech and expression. Firstly, the Rules do not provide for any pre-censorship for content. Therefore, news content generally having a short shelf-life, is not impacted by the Rules, which establish a three-tier grievance redressal mechanism for redressal of grievances related to the violation of Code of Ethics. On the other hand, the mechanism of civil resolution of grievances enhances the public's right to know. The consumers of professionally produced content would be able to learn more about the content producers' perspective regarding the content published by them. Furthermore, the provisions do not impact the production of news and current affairs content. The provisions under the Code of Ethics for news and current affairs content are the same as existing practices which are in vogue for the print and television news media. The Rules do not provide any additional restrictions apart from what is already prohibited by

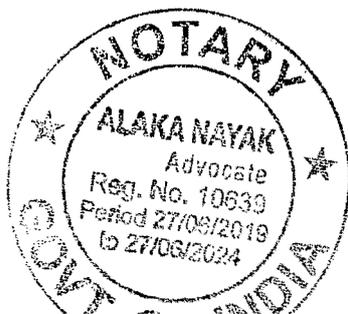


existing statutes. In fact, these ethical norms have not only ensured widespread growth of traditional news media in India, but also ensured that the traditional media still remains the most credible and trustworthy in the eyes of the audience. Therefore, it is submitted that application of similar norms to digital news publishers neither impacts the freedom of speech and expression of the publishers, nor the right to know of the audience.

Freedom of press from the control by Government

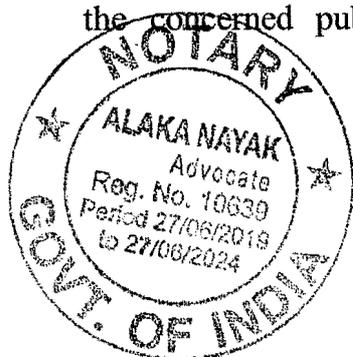
70. **Monitoring:** That the IT Rules, 2021 contain no provision for monitoring of content of the digital media publishers by the Government or any other body. The institutional framework established through Part III deals with publicly published content and therefore, the question of surveillance does not arise. In this regard, there is no control of the Government of the day over the content published by the news media.

71. **Pre-registration:** That there is no requirement for prior registration of digital media publishers with the Ministry. Rule 18 instead provides for furnishing of certain information by the digital media publishers to the Ministry.



This position was also clarified by the Ministry through the Public Notice dated 26.05.2021 (ANNEXURE-R9), through which information was sought from the digital media publishers. In this regard, it is submitted that there is no control of the Government with respect to an individual or an entity starting a digital news platform.

72. **Furnishing of basic Information about the entity:** That the general public often writes to the Government regarding grievances related to content on digital media. Rule 18(1) of the IT Rules provides that the digital media publishers shall inform the Government about the details of its entity by furnishing information along with such documents as may be specified, for the purpose of enabling communication and coordination. In accordance with the said rule, basic information has been sought from the publishers vide Public Notice dated 26.05.2021. The information sought is very basic to the entity, and in many cases already published by the entity in the public domain. For matters related to violation of the Code of Ethics, the rules provide a mechanism for redressal of such grievances for which coordination is required with the publishers, whereby the Government may transfer such grievances received to the concerned publisher for their suitable redressal. In this regard, the



Government has no role in the manner of redressal of such grievances once they have been transferred to the publisher. Therefore, it is submitted that mere furnishing of information to the Government for explicitly laid out purposes, does not imply interference or control of the Government over the functioning of the news media entity.

73. **Reporting:** That the Rules do not provide any mechanism for the publishers to report to the Government in any respect. In this regard, Rule 18(3) and Rule 19(1) provide for publishing of a monthly compliance report by the publishers, and are reproduced hereunder:

“18(3). The publisher of news and current affairs content and the publisher of online curated content shall **publish periodic compliance report** every month mentioning the details of grievances received and action taken thereon.

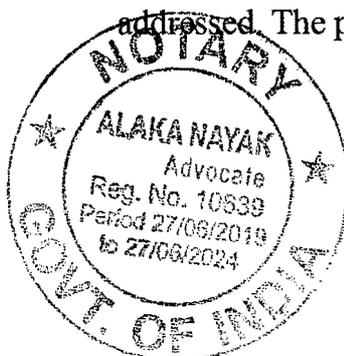
19. **Disclosure of Information.**— (1) A publisher and a self-regulating body, shall make true and full disclosure of all grievances received



by it, the manner in which the grievances are disposed of, the action taken on the grievance, the reply sent to the complainant, the orders or directions received by it under these rules and action taken on such orders or directions.”

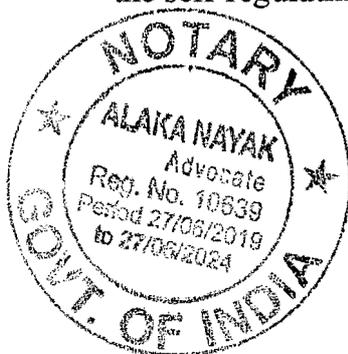
In this regard, the disclosure, by the digital media publishers, of the grievances and action taken thereto is to be done in public domain on the website/interface of the publisher. It is submitted that such disclosure is in the interest of transparency and does not entail any control of the Government.

74. That **Level I** of the grievance redressal mechanism requires a digital publisher to redress the grievances relating to the Code of Ethics within a certain time frame. Such a mechanism is in line with the judgement of the Hon’ble Supreme Court in **Common Cause vs Union of India**, and is appropriate from the viewpoint of providing a forum for citizens who may flag concerns related to the content published, and hence ensure speedy clarification, updation or correction by the publisher itself. Rules explicitly mention that only grievances on content relating to Code of Ethics (and not of any other nature) need be addressed. The publisher can at its level decide whether or not such grievance is



in fact a violation of Code of Ethics and convey the same to the complainant. The Grievance Redressal Officer appointed by the publisher is completely free from any Government interference. Furthermore, there is no requirement for the publisher to report any or all grievances to the Government. In this regard, it is submitted that this level is completely outside any interference or control of the Government.

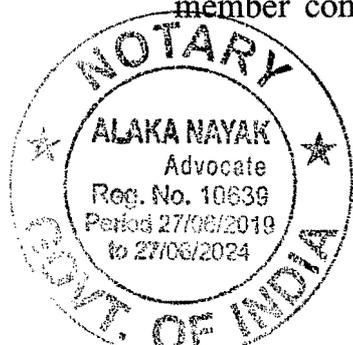
75. That at **Level II of the grievance redressal mechanism**, the self-regulatory bodies would be voluntarily formed by the publishers or their associations. The composition of the self-regulating body would be decided entirely by the publishers and the Government has no role to play in this regard. The requirement of registration of such bodies with the Government is only to ensure that the composition is in accordance with the Rules and the body undertakes to perform the functions laid down under the Rules. Such a provision is also required for practical purposes of coordination and communication between the publishers, the self-regulatory bodies, and the Government in matters related to the public grievances. In this regard, it is submitted that there is no scope for the Government to either interfere or obstruct the formation of the self-regulating body including its composition.



76. That the manner of **functioning of the self-regulatory bodies** would also be determined by the publishers. In this regard, the Government is mandated to issue a Charter, including a Code of Practices in accordance with rule 13 of the IT Rulcs. In this regard, the Charter would broadly mention the functions and role of the self-regulatory bodies, and provide a set of suggestive practices that may be adopted/adapted by the self-regulatory bodies with regard to their functioning, processing of complaints, and support to the publishers. The publishers, or their association, are expected to lay down a Standard Operating Procedure (SOP) with regard to the overall functioning, management and administration of the self-regulating body. In this regard, it is submitted that there is no interference or control of the Government in the functioning of the self-regulating bodies.

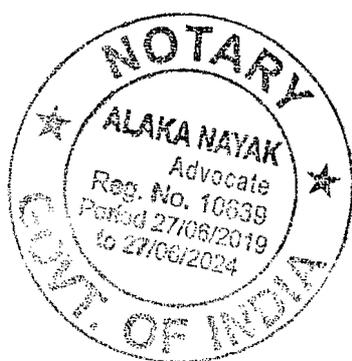
Procedural Reasonableness and Safeguards at Level III of the Grievance Redressal Mechanism

77. That the Oversight mechanism established under the Rules provides for constitution of an Inter-Departmental Committee (IDC), which is a multiple member committee, chaired by an officer of the Ministry of Information &



Broadcasting not below the rank of Joint Secretary, and comprising of representatives from the Ministry of Women and Child Development, Ministry of Law and Justice, Ministry of Defence, Ministry of External Affairs, Ministry of Electronics and Information Technology, Ministry of Home Affairs and such other Ministries and Organisations, including domain experts. The Committee would hear the appeals arising out of the grievances in respect of the decisions taken at the Level I or II, including the cases where no such decision is taken within the time specified in the grievance redressal mechanism. In this regard, it is submitted that a multi-member committee, having non-Governmental domain experts as well, acts as procedural safeguard in respect of making recommendations to the Ministry. The IDC under Part III of the IT Rules not only consists of representatives from the Government, but also of independent experts. In this regard, it is submitted that the presence of independent domain experts would act as an additional procedural safeguard with respect to recommendations being made by the IDC.

78. That the Rules provide for an opportunity for the publisher to be heard before the Committee. In this regard, Rule 14(4) provides that:

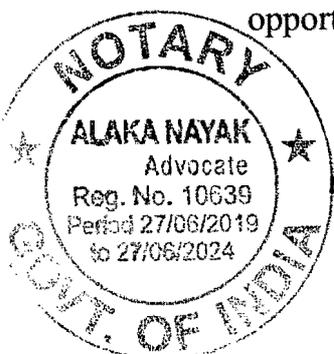


“14(4). The Ministry shall make all reasonable efforts to identify the entity...and where it is able to identify such entity, it shall issue a **duly signed notice to such entity to appear and submit their reply and clarifications, if any, before the Committee.**”

Furthermore, the rules provide for furnishing of information by the publisher to the Ministry. Rule 18(1) states

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

Reading the above rules together, it is submitted that any publisher who has furnished information could be easily contacted, and would surely have an opportunity to be heard before the Committee. Even in other cases, the rules

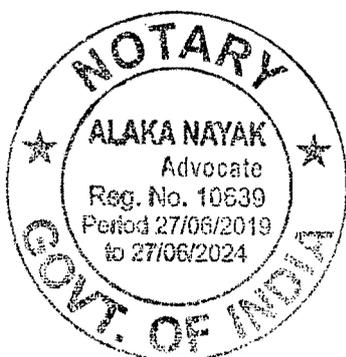


require the Ministry to make best efforts to identify and afford such an opportunity to the publisher before the Committee examines the grievance and makes any recommendations.

79. **Procedure for issue of direction:** That Rule 14(6) provides for issue of appropriate orders to issued by the Ministry on the basis of the recommendations by the Committee:

“14(6). The Ministry may, after taking into consideration the recommendations of the Committee, issue appropriate orders and directions for compliance by the publisher.

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

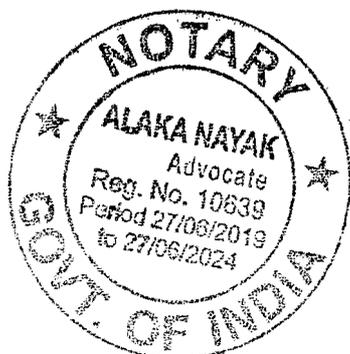


In this regard, it is submitted that after the consideration by the multi-member IDC, any direction can only be issued with the approval of the Secretary, Ministry of Information and Broadcasting. Therefore, it is submitted that the oversight mechanism has a dual safeguard- the IDC, as well as the senior most officer of the Ministry i.e. Secretary, Ministry of Information & Broadcasting to prevent any arbitrary decision-making.

Deletion, modification and blocking of content of publishers

80. That with regard to blocking of content, the Inter-Departmental Committee can recommend blocking of content on the grounds as mentioned in Section 69A of the IT Act, which is reproduced hereunder:

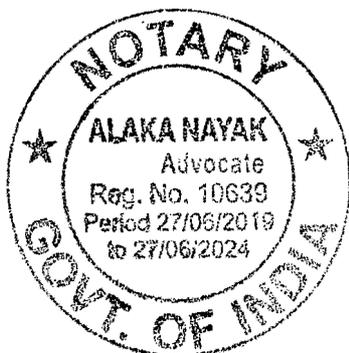
“69A. Power to issue directions for blocking for public access of any information through any computer resource.—(1) Where the Central Government or any of its officers specially authorised by it in this behalf is satisfied that it is necessary or expedient so to do, in the **interest of sovereignty and integrity of India, defence of India, security of the State, friendly relations**



with foreign States or public order or for preventing incitement to the commission of any cognizable offence relating to above, it may subject to the provisions of sub-section (2), for reasons to be recorded in writing, by order, direct any agency of the Government or intermediary to block for access by the public or cause to be blocked for access by the public any information generated, transmitted, received, stored or hosted in any computer resource.

(2) The procedure and safeguards subject to which such blocking for access by the public may be carried out, shall be such as may be prescribed.

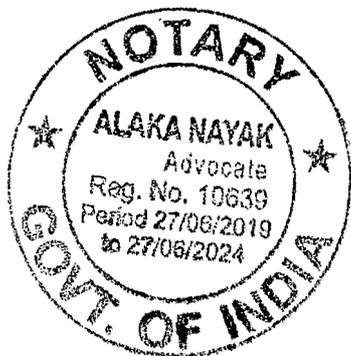
(3) The intermediary who fails to comply with the direction issued under sub-section (1) shall be punished with an imprisonment for a term which may extend to seven years and also be liable to fine.”



In this regard, it is submitted that blocking of content under the Rules is limited to the same grounds as provided under 69A, and upheld by the Hon'ble Supreme Court in **Shreya Singhal vs. Union of India**.

81. That the IDC can give recommendations regarding deletion, modification or blocking of content. The procedure for issue of directions to this effect has been provided for in the Part III of the Rules pertaining to publishers of news and current affairs and publishers of online curated content. Rule 15(2), which is applicable in this regard, is reproduced hereunder:

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

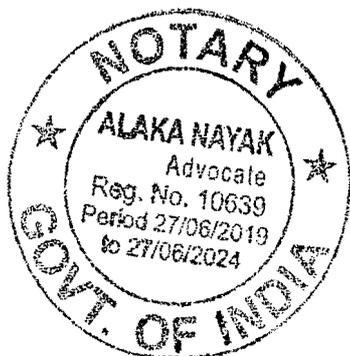


Provided that in case the recommendation of the Authorised Officer is not approved by the Secretary, Ministry of Information and Broadcasting, the Authorised Officer shall convey the same to the Committee.”

It is submitted that both the dual safeguard of a multi-member committee and approval of the Secretary, MIB exists in in respect of all directions to be issued by the Ministry, including the rare situations which may require modification, deletion or blocking of content.

82. That Rule 15(3) under the IT Rules, relating to procedure for issue of directions related to deletion, modification or blocking of content, states that:

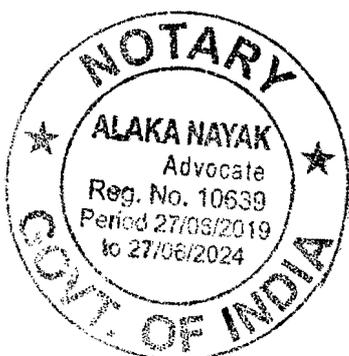
“A direction under this rule may be issued only in respect of a specific piece of content or an enumerated list of content, as the case may be, and shall **not require any entity to cease its operations.**”



83. That with respect to blocking of content, the Hon'ble Supreme Court, in the *Shreya Singhal* judgement, upheld Section 69A of the IT Act and the and the Information Technology (Procedure & Safeguards for Blocking for Access of Information by Public) Rules 2009, based on the several procedural safeguards associated with its operation. In this regard, the Court stated:

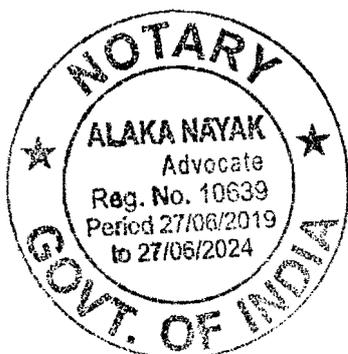
“109. It will be noticed that **Section 69A unlike Section 66A is a narrowly drawn provision with several safeguards.** First and foremost, blocking can only be resorted to where the Central Government is satisfied that it is necessary so to do. Secondly, such necessity is **relatable only to some of the subjects set out in Article 19(2).** Thirdly, **reasons have to be recorded in writing** in such blocking order so that they may be assailed in a writ petition under Article 226 of the Constitution.

110. The Rules further provide for a **hearing before the Committee set up** - which Committee then looks into whether or not it is



necessary to block such information. It is only when the Committee finds that there is such a necessity that a blocking order is made. It is also clear from an examination of Rule 8 that **it is not merely the intermediary who may be heard. If the “person” i.e. the originator is identified he is also to be heard before a blocking order is passed.** Above all, it is only after these procedural safeguards are met that blocking orders are made and in case there is a certified copy of a court order, only then can such blocking order also be made.”

84. That in this regard, it is submitted that **all the safeguards highlighted by the Hon’ble Supreme Court in the Shreya Singhal judgement have been retained** in the provisions related to blocking as well as deletion/modification of content in Part III of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021. In addition, it is submitted that the overall functioning of a publisher is not impacted by any action taken under the

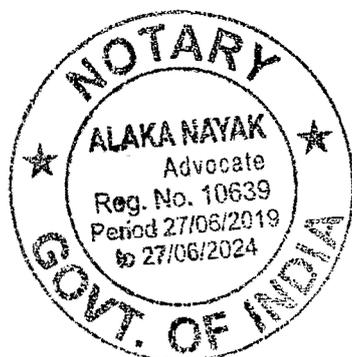


provisions of Part III since the directions issued in this regard are limited to the specific content deemed to be fit for blocking in accordance with the reasons mentioned in Section 69A of the Act and the procedure laid out in the Rules.

85. That it has been argued by the petitioners that blocking of content under Section 69A of the Act is only limited to intermediaries and does not apply to publishers on digital media. In this regard, there may be a need to elaborate on the difference between direct access and distributed discovery of content over the internet. While direct access involves access to content through websites/mobile apps of the originators, distributed discovery involves use of social media intermediaries for the same. In this regard, Section 11 of the Act identifies and recognizes distributed discovery, while simultaneously attributing electronic records as published by the intermediary on behalf of the originator, to the originator itself:

“11. Attribution of electronic records.—An electronic record shall be attributed to the originator—

(a) if it was sent by the originator himself;



(b) by a person who had the authority to act on behalf of the originator in respect of that electronic record; or

(c) by an information system programmed by or on behalf of the originator to operate automatically.”

86. That the significance of distributed discovery of news and current affairs content in India has also been highlighted by the Reuters’ India Digital News Report 2019 which states that:

“India has emerged as a large market for social media giants like Facebook, LinkedIn, Instagram, and Twitter, and our survey demonstrates how these **digital intermediaries** have become absolutely central to online news distribution, providing publishers with competition for attention and advertising, but



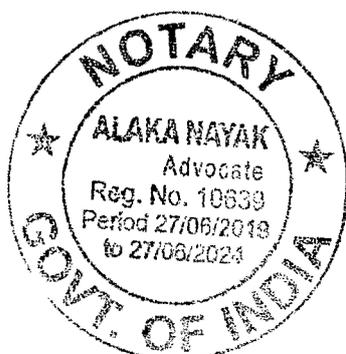
also new opportunities to reach wider online audiences.

Among our respondents, direct discovery of news (where users go directly to a news organisation's website or app) is seen as far less important than various forms of distributed discovery (where users discover and access news through a variety of digital platforms). **Search is an important gateway for many users, and as audiences have embraced social media like Facebook and Twitter, publishers have begun sharing breaking news and features on these platforms.** At the same time, messaging apps like WhatsApp are now being used by millions to get online news, and by publishers sending news directly to subscribers.

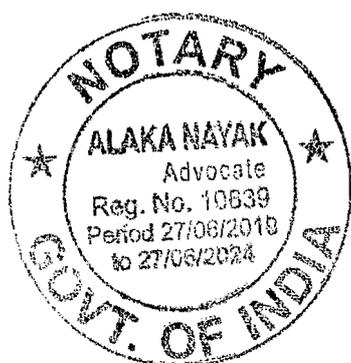
In our sample of English-speaking online news users, just 35% say they go directly to news websites or apps, and **only 18% consider direct**

access their main way of accessing news online(compared to 26% in the US and 35% in Brazil). An overwhelming majority of the respondents identify various forms of distributed discovery as their main way of accessing news online. Search (32%) and various kinds of social media (24%) are particularly important. **Such side-door access through various intermediaries over which news publishers themselves have limited control is far more important among our Indian respondents than it is for online news users in a market like the US.”**

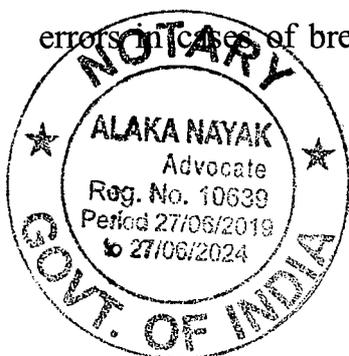
87. That as per the IT Act, the term “intermediary” is not only limited to social media platforms, but also extends to other intermediaries such as internet service providers, web-hosting service providers, etc. Within the scope of Section 69A of the IT Act, while distributed discovery of content can be blocked by issuing appropriate directions to the social media intermediaries, direct access can also be blocked by issuing such directions to intermediaries such as internet service



providers and web-hosting service providers. In the past, orders for blocking access to content have been issued, by the Courts as well as the Government, not just with respect to objectionable content on social media platforms, but also with respect to content on other websites, including news publishers. Therefore, it is submitted that the provision regarding blocking of content published by a publisher of news and current affairs content, whether on social media platforms or on its own interface such as the website or an app, is not a new provision, and is well within the scope of the Act. For the past eleven years, since 2009, the provision has been exercised by the Secretary, Ministry of Electronics and IT under the Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009. Under the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, this provision, with respect to the publishers of news and current affairs content and publishers of online curated content, has only been replaced with Secretary, Ministry of I&B because Part III of these rules would be administered by the Ministry of Information & Broadcasting. There has been no change in the grounds for blocking of content, or the procedure required to be followed for issue of orders for blocking of access to content. A clarification in this regard was also issued by the Ministry of Information & Broadcasting on 27.02.2021.

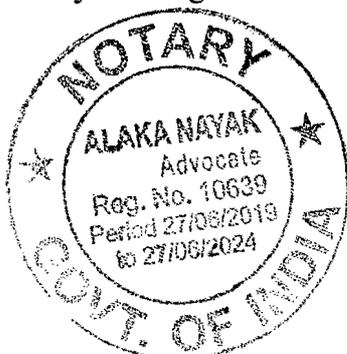


88. **Deletion/Modification of content:** That the Rules provide for deletion of content by the publisher itself. In this regard, there may be a need to recognize the difference between blocking and deletion of content. While blocking of content is done by an entity which is not the original publisher of content, deletion of the same pertains to the entity which has published the content in the first place. Therefore, directions for blocking of content can be issued to the intermediaries, while the directions for deletion of the same can be issued only to the originators of content. While both the processes lead to the same outcome of disabling access to the content, blocking is generally resorted to in situations where the originator of the content is either unidentified, incommunicable or could not be trusted for deletion of content. In this regard, the provision for blocking of content is a rather extreme measure utilized in rare circumstances. On the other hand, publishers, under Rule 18, are mandated to furnish information to the Ministry for communication and coordination. The publishers also have the opportunity to be heard before the Inter-Departmental Committee. Furthermore, with respect to news and current affairs content and online curated content, it is possible that instead of the entire content, a part of the content may be in violation of the Code of Ethics. Such cases may include unintentional errors in cases of breaking news reports, use of specific prohibited terms in



particular scenes in case of online curated content, etc. In such cases, it is submitted that blocking of the entire content may appear to be an extreme measure, and deletion or modification of a part thereof is relatively more reasonable. Furthermore, it is also submitted that the provision for directions to the publisher regarding deletion/modification of content is in the interest of transparency, and allows the publishers to challenge such orders before the courts of law, thereby acting as a further safeguard in the interest of freedom of speech.

89. That it is submitted that Part III of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 is within the legislative competence of the Ministry of Electronics & Information Technology to make the subordinate legislation, does not violate any of the Fundamental Rights guaranteed under the Constitution of India, does not violate any provision of the Constitution of India, conforms to the Information Technology Act and does not violate any of the provisions of the Act, does not violate any other Act of the Parliament, provides for sufficient safeguards to be reasonable for the publishers, and is limited to the objects sought to be achieved by the Legislature through the Information Technology Act. In this regard, it is



submitted that Part III of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, passes the test for subordinate legislation laid down by the Hon'ble Supreme Court in State of Tamil Nadu vs. P. Krishnamurthy &Ors. (2006) SCC 517.

90. That in view of the foregoing it is humbly submitted that grounds put forth in the Writ Petitions challenging the maintainability of the IT Rules, 2021 in terms of the IT Act, 2000 and Article 19 of Constitutions of India are fallacious and are not based on facts and it is thus prayed that the Hon'ble Court may be pleased to dismiss Writ Petition.



DEPONENT

(अमरेन्द्र सिंह)
(AMARENDRA SINGH)
अवर सचिव/Under Secretary
सूचना एवम् प्रसारण मन्त्रालय
Min. of Information & Broadcasting
भारत सरकार, नई दिल्ली
Govt. of India, New Delhi

VERIFICATION

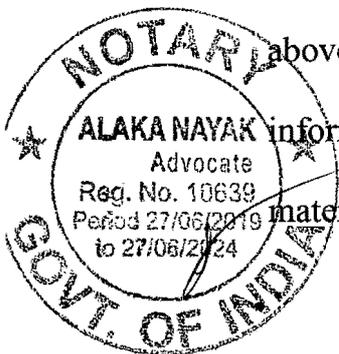
27 AUG 2021

Verified at New Delhi on this 27th day of August, 2021, that the contents of

above affidavit are true and correct to the best of my knowledge and

information derived from the official records. No part of it is false and nothing

material has been concealed therefrom.



CERTIFIED THAT THE DEPONENT

Shri/Smt./Km.....
S/o, W/o R/o.....

Identified by Sd/Sr.....

Has solemnly affirmed.....

Delhi on.....as Sd.

That the contents of the a

have been read & explained

are true & correct to his/her knowledge

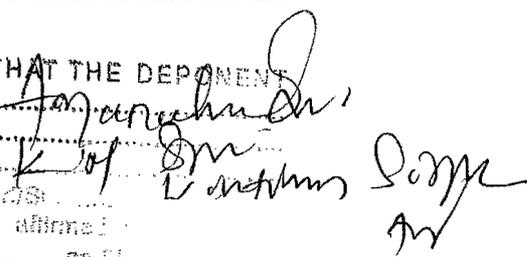
DEPONENT

(अमरेन्द्र सिंह)
(AMARENDRA SINGH)
अवर सचिव/Under Secretary
सूचना एवम् प्रसारण मन्त्रालय
Min. of Information & Broadcasting
भारत सरकार, नई दिल्ली
Govt. of India, New Delhi

27 AUG 2021

NOTARY

Identified the deponent who has signed in my presence.





भारत का राजपत्र The Gazette of India

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असाधारण
EXTRAORDINARY

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

प्राधिकार से प्रकाशित
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नई दिल्ली, मंगलवार, नवम्बर 10, 2020/कार्तिक 19, 1942
NEW DELHI, TUESDAY, NOVEMBER 10, 2020/KARTIKA 19, 1942

मंत्रिमंडल सचिवालय

अधिसूचना

नई दिल्ली, 9 नवम्बर, 2020

का.आ. 4040(अ).—राष्ट्रपति, संविधान के अनुच्छेद 77 के खण्ड (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार (कार्य-आबंटन) नियम, 1961 का और संशोधन करने के लिए, निम्नलिखित नियम बनाते हैं, अर्थात्:-

- (1) इन नियमों का संक्षिप्त नाम भारत सरकार (कार्य-आबंटन) तीन सौ सत्तावनवां संशोधन नियम, 2020 है।
(2) ये तुरंत प्रवृत्त होंगे।
- भारत सरकार (कार्य-आबंटन) नियम, 1961 की द्वितीय अनुसूची में, "सूचना और प्रसारण मंत्रालय" शीर्षक के अधीन, प्रविष्टि 22 के पश्चात, निम्नलिखित उप-शीर्षक और प्रविष्टियाँ अंतः स्थापित की जाएंगी, अर्थात्:-

"Vक. डिजिटल/ऑनलाइन मीडिया

22क. ऑनलाइन विषय-वस्तु प्रदाताओं द्वारा उपलब्ध कराये गए फिल्म और दृश्य-श्रव्य कार्यक्रम।

22ख. ऑनलाइन प्लेटफॉर्म पर समाचार और समसामयिक विषय-वस्तु।"

राम नाथ कोविन्द
राष्ट्रपति

[फा. सं. 1/21/7/2020-मंत्रि.]
आशुतोष जिंदल, संयुक्त सचिव

CABINET SECRETARIAT

NOTIFICATION

New Delhi, the 9th November, 2020

S.O. 4040(E).—In exercise of the powers conferred by clause (3) of article 77 of the Constitution, the President hereby makes the following rules further to amend the Government of India (Allocation of Business) Rules, 1961, namely:-

1. (1) These rules may be called the Government of India (Allocation of Business) Three Hundred and Fifty Seventh Amendment Rules, 2020.
- (2) They shall come into force at once.
2. In the Government of India (Allocation of Business) Rules, 1961, in THE SECOND SCHEDULE, under the heading “MINISTRY OF INFORMATION AND BROADCASTING (SOOCHANA AUR PRASARAN MANTRALAYA)” after entry 22, the following sub-heading and entries shall be inserted, namely:-

“VA. DIGITAL/ONLINE MEDIA

- 22A. Films and Audio-Visual programmes made available by online content providers.
- 22B. News and current affairs content on online platforms.”.

RAM NATH KOVIND
President

[F. No. 1/21/7/2020-Cab.]
ASHUTOSH JINDAL, Jt. Secy.

MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY

NOTIFICATION

New Delhi, the 25th February, 2021

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

PART I

PRELIMINARY

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

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

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

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

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

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

(2) Words and expressions used and not defined in these rules but defined in the Act and rules made thereunder shall have the same meaning as assigned to them in the Act and the said rules, as the case may be.

PART II

DUE DILIGENCE BY INTERMEDIARIES AND GRIEVANCE REDRESSAL MECHANISM

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

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

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

- 156 -

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PART III

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

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

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

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

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

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

Explanation.—For the purposes of this rule,—

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

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

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

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

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

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

CHAPTER I

GRIEVANCE REDRESSAL MECHANISM

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

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

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

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

CHAPTER II

SELF REGULATING MECHANISM - LEVEL I

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

(2) A publisher shall—

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

(3) The Grievance Officer shall,—

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

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

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

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

CHAPTER III

SELF REGULATING MECHANISM – LEVEL II

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

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

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

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

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

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

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

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

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

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

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

CHAPTER IV

OVERSIGHT MECHANISM - LEVEL III

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER V

FURNISHING OF INFORMATION

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

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

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

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

CHAPTER VI

MISCELLANEOUS

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

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

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

APPENDIX

CODE OF ETHICS

I News and current affairs:

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

II Online curated content:

(A) General Principles:

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

(B) Content Classification:

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

(C) Display of Classification:

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

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

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

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

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

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

SCHEDULE

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

PART I

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

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

(a) Context:

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

(b) Theme:

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

(c) Tone and impact:

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

(d) Target audience:

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

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PART II
ISSUE RELATED GUIDELINES

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

(a) Discrimination:

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

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

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

(c) Imitable behaviour:

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

(d) Language:

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

(e) Nudity:

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

(f) Sex:

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

(g) Violence:

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

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

Dr. RAJENDRA KUMAR, Addl. Secy.

ANNEXURE R-3

Extract of Lok Sabha Debates

Discussion On The Information Technology Bill, 1999. (on 15 May, 2000)

Title: Discussion on the Information Technology Bill, 1999. (Not concluded)

MR. SPEAKER: Now the House will take up Item No.17, Information Technology Bill, 1999. The time recommended by the BAC is four hours.

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THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF INFORMATION TECHNOLOGY (SHRI PRAMOD MAHAJAN): Sir, I beg to move:

"That the Bill to provide legal recognition for transactions carried out by means of electronic data interchange and other means of electronic communication, commonly referred to as "electronic commerce", which involve the use of alternatives to paper-based methods of communication and storage of information; to facilitate electronic filing of documents with the Government agencies and further to amend the Indian Penal Code, the Indian Evidence Act, 1872, the Banker's Book Evidence Act, 1891 and the Reserve Bank of India Act, 1934 and for matters connected therewith or incidental thereto, be taken into consideration. "

Sir, the Information Technology Bill, 1999 was introduced with a view to facilitate transactions carried out by means of electronic data interchange. Transactions carried out using the media of electronic communication are known as "electronic commerce" which is now used by organisations, business consumers, both in private and public sector. It is, thus, necessary that this alternative to paper-based method of communication receives a legal sanction. This Bill also provides for legal recognition to the digital signatures and documents filed electronically. The enactment of this Bill would enable

finalisation of contracts and creation of rights and obligations through electronic media.

The Bill also provides for the appointment of a controller to supervise the certifying authorities, which would issue digital signature certificates. To prevent misuse of transactions in the electronic medium the proposed legislation envisages appropriate punishment for the contravention of the provisions.

Further, the Bill has suitable clauses to deal with tampering of computer source documents, publishing information which is obscene in nature and issues relating to damage to computers, computer systems through a system of appropriate penalties and punishment. The Bill also facilitates electronic governance and enable the user acceptance of electronic records and digital signatures in government offices. The Bill was introduced in the Lok Sabha on the 16th of December. It was referred to the Standing Committee on Science and Technology, Environment and Forests. I am grateful to the Chairman and Members of the Standing Committee because, they had several sittings, and they examined the Bill and gave us very valuable suggestions. We have

accepted almost all the suggestions of the Standing Committee barring two and I will take only a minute or two to explain about the suggestions which we did not accept.

The Standing Committee suggested that a Website or a portal should have a registration. We thought that having a Website and a portal is done even by a ten year old kid these days and the number goes into lakhs; the registering authority for that will unnecessarily create a hurdle for the public at large. So, we did not accept this suggestion.

The second suggestion was that in an ordinary computer cyber café, a crime could be committed through cyber café. So, any visitor who goes through the cyber café should be registered or what he does should be registered. We thought that the intention was very right to stop this crime. But even criminals can use an STD booth. But we do not have people going through a register whether he has made a call, what he did, and so on. Similarly, there are many places where such crimes against people are committed. But we do not keep a register. So, we thought we should trace out the crimes. But such an action of keeping a register will create problems for the people. Because this cyber café

is a place where a person who cannot own a personal computer wants to take advantage of this information technology; he should be able to use it.

These are the two areas where respectfully we disagreed with the Standing Committee's recommendations and the rest of all the suggestions have been incorporated in the form of amendments.

Lastly, I would like to say only one thing. Information Technology for some people is some kind of a scientific revolution. Information Technology for some is a means to get money which is very easy to earn. Information Technology for India is a way to become a super power in the next 10 years. **But if you ask me as a lay man to define what is Information Technology, I can only say that Information Technology is the fourth generation of human communication. When the human society came on the earth the first way of communication between people was through gestures. When somebody smiled we thought that he was happy. Second, the human race had brought up a spoken language. Then we come to written language. Now we have reached towards digital language which is the fourth generation of human communication. It is the faster one. The fastest fifth**

generation of human communication is mind to mind communication and its intellectual property rights are with the Almighty God; and nobody else has this communication. So, digital communication is the fourth generation. So, when we moved from a spoken language to a written language, thousands of text-books were written. We re-wrote everything. Similarly when we are moving from a written language to a digital language we will have to re-write almost every piece of legislation in this country.

I would like to recall, if you remember, on the very first day of the Budget session, the Government wanted to submit the Subrahmanyam Committee Report on a CD-Rom.

It is because we did not have 2,000 pages copied into 800. But the Secretariat rightly so refused because in Lok Sabha, we can only lay papers on the Table of the House and not electronically we can lay things. So, accepting the electronic mail, everything, I do not want to go into all details, but this being the fourth generation of communication, we have brought up the Information Technology Bill. It is not that we have brought it up in a hurry. We have tried

for one year. As I said in the morning, we have redrafted it for 150 times. Then, we gave it to Parliament; we gave it to the people. There was a debate in the public. Every debate was submitted to the Standing Committee. The Standing Committee thought about it. Now, I think, it has become really very late, if we do not pass it. The whole world is waiting for India to become a super power. That needs a legal framework.

I will request the House to discuss it fully as long as they want, but pass it and make the cyber laws true after this Session.

Sir, with these few words, I would request the House to pass this Bill unanimously.

MR. SPEAKER: Motion moved:

"That the Bill to provide legal recognition for transactions carried out by means of electronic data interchange and other means of electronic communication, commonly referred to as "electronic commerce", which involve the use of alternatives to paper-based methods of communication and storage of information, to facilitate electronic filing of documents with the Government

agencies and further to amend the Indian Penal Code, the Indian Evidence Act, 1872, the Banker's Book Evidence Act, 1891, and the Reserve Bank of India Act, 1934 and for matters connected therewith or incidental thereto, be taken into consideration."

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THE MINISTER OF STATE OF THE MINISTRY OF INFORMATION AND BROADCASTING AND MINISTER OF STATE OF THE DEPARTMENT OF DISINVESTMENT (SHRI ARUN JAITLEY): Mr. Chairman, Sir, I am extremely grateful to you for giving me this opportunity to support the legislation which has been introduced by the Minister of Information Technology, Shri Pramod Mahajan. It also gives me an opportunity to respond to some of the issues which have been raised by some of the very senior and distinguished Members of this House.

A question which has repeatedly arisen today is as to what is the urgency in passing this Bill. The second question which has been raised, particularly by Shri K.P. Singh Deo and Shri Rupchand Pal is this. Should the law not be comprehensive enough to take into account the impact of convergence of technologies? Shri Shivraj V. Patil has listed several issues which he feels will have to be considered before this Bill can be eventually passed. He says: "Do not legislate in a hurry because some contradictions may emerge later on".

The purpose of this Bill is two-fold. The first aspect of this law is e-Documentation, e-Commerce, and e-Communication which have become a reality. They already face us and our existing laws have so far lagged behind in not giving a legal sanction to those documents.

The second purpose is that with the emergence of this new technology, new crimes have come into existence. Therefore, any delay in the passing of this Bill is really going to enable either a non-recognition of what is the reality in terms of e-mail, e-documentation and also allowing those who committed these offences to get away till such time that this law has been passed.

Sir, I will illustrate it by two small illustrations. Today contracts, international trade, even domestic trade do not take place by two individuals physically meeting, interacting, discussing and then signing a written document. It is a harsh reality that these are going on by e-Mail; these are going on through various electronic documentations. Our courts still will not recognise any one of these because these documents are not documents, are not recognised within the meaning of our traditional laws.

Therefore, if somebody were to resile out of these contracts, these documents will not be worth the paper they are written on because there is no legal recognition of it. How long can we wait and see? The United Nations adopted the model law in 1997. Nation after nation have been adopting these laws. There is now an international model of this legislation which has emerged and I feel that it is about time that we pass this law which gives recognition to the entire documentation which takes place through e-Documentation so that it can facilitate e-Trade in this country. Just last week we had the 'Love Bug' which destroyed a large number of computers. I was wondering to myself, when I read newspaper reports, that under which law in India would this kind of an exercise be an offence. Somebody can actually come and hack computers, steal

information, destroy information and still go scot free because we have already been too late in legislating in this regard. So, when you say, Sir, what is the urgency, the urgency is that we have already been too late in this regard and, therefore, the Legislature has to live up to these changing realities and enact a law which not only gives recognition to this documentation but which also starts recognising these new realities which are also a reality today.

Keeping pace with technology for any legislative exercise, Shri Patil is right, is a difficult exercise. Technology moves faster than legislation. You always get educated by experience in this line and, therefore, you may well have to change your legislation from time to time to keep pace with this legislation. The best evidence is what was provided by Shri Pal and Shri K.P. Singh Deo when they said, what about a larger convergence law? These are all areas which are not conceived of years ago. Convergence is a reality, but let me just say this on convergence that in law-making, you do not mix one branch of law with another. This law is limited for the purpose of creating these new Cyber offences, providing remedies against those offences, compensation with regard to those offences and punishment with regard to those offences. This law seeks to recognise e-Documentation as a reality in law. The impact of convergence

between Internet, telecommunication and broadcasting is an entirely different branch which, as has been rightly pointed out, is a fact that the Government is certainly concerned with and we are working in this area.

Several questions were raised with regard to the proposed Bill and I shall deal broadly with each of the important ones which have been raised. Shri Patil wanted to know as to why contracts for sale of immovable property have been left out of e-Commerce. Leaving them out is a reality because there is a separate legislation - the Registration Act - which deals with recognising each immovable property transaction after it has been registered. You have offices of Sub-Registrars all over the country and you have offices of Registrars all over the country. Unless those offices also tune themselves to the changing technologies which, I have no doubt, in due course of time they would. Today, to say that every contract of immovable property will come under this, may not be possible. We will have perhaps to wait for some time when the reality of documentation also penetrates and reaches those areas.

There were several questions which have been raised. For instance, it was pointed out that under Clause 57, why do we provide for an appeal not being

there. Clause 57(2), Shri Patil objected, is a superfluous provision. No appeal shall lie against a Tribunal by an order made with the consent of parties. Much that it may appear to be a superfluous provision, when two parties before the Adjudicating Officer agree for a particular amount of compensation, normally no Tribunal is going to entertain an appeal against that. But practical experience is to the contrary. People have filed appeals even after agreeing against consent orders and, therefore, we have amended a series of our laws. In fact, I was just going through the Civil Procedure Code which contains now an identical provision in Section 96 that against the consent order passed by a court, an appeal is to be specifically barred. Otherwise an abuse was going on. You go and agree before one authority and still you seek to challenge that order before another authority.

So, it is a matter of precaution that various laws have been amended. This is not the only law that has this provision. Various laws have been amended to have this kind of a provision introduced in these laws.

Section 58 says that the Tribunal is not bound by the Code of Civil Procedure, but it is bound to comply with the principles of natural justice. And, thereafter,

in Section 58(2), hon. Member, Shri Shivraj Patil saw a contradiction when it was mentioned. But some powers of the C.P.C. are still given to the Tribunal. Section 58 is a standard provision which is contained in all legislations where Special Tribunals are created. The object of Special Tribunals is that you must have an expeditious remedy and the cumbersome procedure mentioned in law should not apply, should not be a long-winded remedy, but still there must be fairness in the procedure. And fairness in the procedure requires that the persons who are concerned with this must be given a fair hearing. Therefore, even though you are not bound by the Civil Procedure Code, you are bound to observe the principles of natural justice. Every adjudicating law which provides for an adjudicating authority has this power. But some specific powers of the C.P.C. are given, because if those powers were not given, how would the adjudicating authority summon witnesses; how would he confer an oath to them; how would he allow oral evidence or affidavit evidence? So, only some selective powers are given and the generality of the procedure code does not apply. Now, this is there in various Acts which provide for adjudicating authorities which have been created.

In fact, I was drawing parallels in other laws – in the SEBI law, in the FERA law, in the Administrative Tribunals Act where an almost identical provision of this kind does exist. So, there is nothing extraordinary that in this particular law, a provision has been put in.

An issue was raised that Section 62 provides for an appeal to the High Court. Are we creating a system of three appeals? The answer is 'No'. There is an adjudicating authority. His order on facts and law is appealable to the Tribunal. So, on facts only one appeal is provided, namely appeal to the Tribunal. A second appeal is provided to the High Court in para materia with our civil law, not on facts but only on a question of law. No further appeal is provided. On facts, there is only one appeal. On a question of law, you can go to the High Court which is there in the normal civil law of the land. This law is in para materia with that law.

And thereafter, an appeal to the Supreme Court, by Special Leave, under Article 136 is there which is never a statutory right. It is a highly discretionary remedy which is never considered an appellate right of any particular person. So, there

is one appeal on facts and two appeals, as far as the question of law is concerned and there is no other appeal.

Regarding Section 76, though Shri P.H. Pandiyan expressed the contrary view, Shri Shivraj Patil has suggested that Section 76 is really violating the principle of double jeopardy. Because Section 76 says : "No penalty under this act shall prevent imposition of punishment under any other law...."

Shri Pandiyan had responded to that by giving a very correct illustration by saying that you may have disproportionate assets; you may also be equally liable under another law to pay tax on the assets you have acquired even if they are illegally acquired. The Act may be the same. But the offences are different. Therefore, the principle of article 20 which brings in double jeopardy applies as far as different offences are concerned that no person shall be punished twice for the same offence. If the offences are different, one, under the Prevention of Corruption Act and the other under the Income-tax Act, as Shri Pandiyan has rightly said, two remedies are permissible in law. The mandate of Article 20 does not come in.

Regarding Section 79, as a large number of hon. Members also pointed out this morning, it is a provision which has come for extensive comment even in the media. The provision says that 'Notwithstanding anything in the criminal law, an officer not below the rank of a Deputy Superintendent of Police is entitled to enter a public place, search the public place and even arrest the person without a warrant'. Now, it has been commented that such a provision is draconian in character.

Hon. Minister, Shri Pramod Mahajan while intervening earlier, had clarified that. On the surface, this argument appears to be attractive. But how are you going to give this power to a police officer to search a premises?.

But is this the first law where this power is there? This power has a very strong rationale. In Section 41 and Section 165 of the Criminal Procedure code, this power is there. In FERA, this power is there in Section 45. In fact, Section 45 of FERA is identically reproduced in clause 79 of the present Bill. This power is there under Section 105 of the Customs Act.

EXTRACT OF RAJYA SABHA DEBATES ON 17th MAY, 2000

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THE DEPUTY CHAIRMAN: Mr. Pritish Nandy, you use internet, and that is why Mr. Sanjay told me that you want to add something. But we have a very limited time.

SHRI PRITISH NANDY (Maharashtra): Madam Deputy Chairperson, I thank you for giving me an opportunity to make one point. I want to make one point, and I will take a minute and a half. I hope that you will bear with me.

The challenge before any society, particularly a futuristic and forward looking society, is how to ensure the freedom of its citizens and, at the same time, take adequate caution to protect itself. The skill lies in striking the perfect balance between Individuals freedom and State control. Madam, information technology has been the fastest growing area of knowledge and endeavour in modern India in recent years. It has been this only because it was free, only because it was uncontrolled, because there was no Government intervention. It has created great wealth for modern India and produced more Indian miliionnaires and billionnaires,

even dollar billionaires, than any other industry. For a short spell, we even had a Bangalore-based Indian, not a non-resident Indian, who was rated as the second richest man in the world. Information technology, in the short space of time, has democratized wealth, broken the monopolies and vested interests of traditional business families who controlled the old economy. It has given phenomenal wealth to young and accomplished professionals and, above all, most important, opened up a new, independent, low-cost means of communication. In this discussion, we have somehow ignored the last point. **It has opened up a means of communication that has challenged the oligarchy, the monopolies and the vested interests of the traditional media, be it newspapers, magazines or television stations. It has empowered independent journalists and made it virtually impossible to cover up, hide or sabotage truth. It has made the humblest human being capable of fighting back the brute callousness of the State and the corruption of mighty business empires just by opening up a new, alternative means of free communication.** Now, the state wants to intervene. In the name of fighting crime and controlling e-commerce, it wants to control, direct, and, if I may say so, manipulate, the medium of the future. I admit that aberrations occasionally take place. They take place anywhere. They take place as much in the virtual universe as in the real universe. But, it does not mean that we must destroy the medium of the future in anticipation of crimes that may or may not be committed.

Madam, the most important role of the internet is not e-commerce. It is not to commit crimes. It is not to have sex chats. It is not even to ensure e-governance, important as it may be. It is to ensure communication between people, communities, nations. It is to educate, inform, help, heal, teach, support and encourage assist people. It is in its formative years, in its adolescence, right now. This is not really the time, in my view, Madam, for such heavy-handed State intervention. It is the time for nurturance growth, encouragement, support, not for policing, not for punishing, not for taxing, not for the heavy hand of the State. While I welcome some degree of regulation, my request to the hon. Minister is, Please leave internet alone from prowling policemen with or without warrants. Please leave it alone from rough neck, tax officers, from control freaks of the State. Allow this opportunity to flourish. This is the first time India has shown to the world that it has the talent, the technology, the wisdom, the knowledge and the expertise to take on the first world. Do not trample on it, do not harass, intimidate, threaten it, allow it to grow. It will bring India and Indians glory, wealth, information and greater freedom. Remember, it is the medium of the future which no robber baron can own, no State can control, no imperial power can subvert. Let us learn to live with this freedom and nurture it, instead of trying to tame it or legislate it so firmly, so harshly.

Thank you.

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ANNEXURE. RS

NOTIFICATION

New Delhi, the 11th April, 2011

G.S.R. 314(E).— In exercise of the powers conferred by clause (zg) of subsection (2) of section 87 read with sub-section (2) of section 79 of the Information Technology Act, 2000 (21 of 2000), the Central Government hereby makes the following rules, namely:-

1. Short title and commencement — (1) These rules may be called the Information Technology (Intermediaries guidelines) Rules, 2011.

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

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

- (a) "Act" means the Information Technology Act, 2000 (21 of 2000);
- (b) "Communication link" means a connection between a hyperlink or graphical element (button, drawing, image) and one or more such items in the same or different electronic document wherein upon clicking on a hyperlinked item, the user is automatically transferred to the other end of the hyperlink which could be another document website or graphical element.
- (c) "Computer resource" means computer resources as defined in clause (k) of sub-section (1) of section 2 of the Act;
- (d) "Cyber security Incident" means any real or suspected adverse event in relation to cyber security that violates an explicitly or implicitly applicable security policy resulting in unauthorised access, denial of service or disruption, unauthorised use of a computer resource for processing or storage of information or changes to data, information without authorisation;
- (e) "Data" means data as defined in clause (o) of sub-section (1) of section 2 of the Act;

- (f) "Electronic Signature" means electronic signature as defined in clause (ta) of sub-section (1) of section 2 of the Act;
- (g) "Indian Computer Emergency Response Team" means the Indian Computer Emergency Response Team appointed under sub section (1) section 70 (B) of the Act;
- (h) "Information" means information as defined in clause (v) of sub-section (1) of section 2 of the Act;
- (i) "Intermediary" means an intermediary as defined in clause (w) of sub-section (1) of section 2 of the Act;
- (j) "User" means any person who access or avail any computer resource of intermediary for the purpose of hosting, publishing, sharing, transacting, displaying or uploading information or views and includes other persons jointly participating in using the computer resource of an intermediary.

(2) All other words and expressions used and not defined in these rules but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Due diligence to be observed by intermediary — The intermediary shall observe following due diligence while discharging his duties, namely : —

(1) The intermediary shall publish the rules and regulations, privacy policy and user agreement for access-or usage of the intermediary's computer resource by any person.

(2) Such rules and regulations, terms and conditions or user agreement shall inform the users of computer resource not to host, display, upload, modify, publish, transmit, update or share any information that —

- (a) belongs to another person and to which the user does not have any right to;
- (b) is grossly harmful, harassing, blasphemous defamatory, obscene, pornographic, paedophilic, libellous, invasive of another's privacy, hateful, or racially, ethnically objectionable, disparaging, relating or encouraging money laundering or gambling, or otherwise unlawful in any manner whatever;
- (c) harm minors in any way;
- (d) infringes any patent, trademark, copyright or other proprietary rights;
- (e) violates any law for the time being in force;
- (f) deceives or misleads the addressee about the origin of such messages or communicates any information which is grossly offensive or menacing in nature;
- (g) impersonate another person;

(h) contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer resource;

(i) threatens the unity, integrity, defence, security or sovereignty of India, friendly relations with foreign states, or public order or causes incitement to the commission of any cognisable offence or prevents investigation of any offence or is insulting any other nation

(3) The intermediary shall not knowingly host or publish any information or shall not initiate the transmission, select the receiver of transmission, and select or modify the information contained in the transmission as specified in sub-rule (2):

provided that the following actions by an intermediary shall not amount to hosting, publishing, editing or storing of any such information as specified in sub-rule: (2) —

(a) temporary or transient or intermediate storage of information automatically within the computer resource as an intrinsic feature of such computer resource, involving no exercise of any human editorial control, for onward transmission or communication to another computer resource;

(b) removal of access to any information, data or communication link by an intermediary after such information, data or communication link comes to the actual knowledge of a person authorised by the intermediary pursuant to any order or direction as per the provisions of the Act;

(4) The intermediary, on whose computer system the information is stored or hosted or published, upon obtaining knowledge by itself or been brought to actual knowledge by an affected person in writing or through email signed with electronic signature about any such information as mentioned in sub-rule (2) above, shall act within thirty six hours and where applicable, work with user or owner of such information to disable such information that is in contravention of sub-rule (2). Further the intermediary shall preserve such information and associated records for at least ninety days for investigation purposes,

(5) The Intermediary shall inform its users that in case of non-compliance with rules and regulations, user agreement and privacy policy for access or usage of intermediary computer resource, the Intermediary has the right to immediately terminate the access or usage rights of the users to the computer resource of Intermediary and remove non-compliant information..

(6) The intermediary shall strictly follow the provisions of the Act or any other laws for the time being in force.

(7) When required by lawful order, the intermediary shall provide information or any such assistance to Government Agencies who are lawfully authorised for

investigative, protective, cyber security activity. The information or any such assistance shall be provided for the purpose of verification of identity, or for prevention, detection, investigation, prosecution, cyber security incidents and punishment of offences under any law for the time being in force, on a request in writing stating clearly the purpose of seeking such information or any such assistance.

(8) The intermediary shall take all reasonable measures to secure its computer resource and information contained therein following the reasonable security practices and procedures as prescribed in the Information Technology (Reasonable security practices and procedures and sensitive personal Information) Rules, 2011.

(9) The intermediary shall report cyber security incidents and also share cyber security incidents related information with the Indian Computer Emergency Response Team.

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

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

(11) The intermediary shall publish on its website the name of the Grievance Officer and his contact details as well as mechanism by which users or any victim who suffers as a result of access or usage of computer resource by any person in violation of rule 3 can notify their complaints against such access or usage of computer resource of the intermediary or other matters pertaining to the computer resources made available by it. The Grievance Officer shall redress the complaints within one month from the date of receipt of complaint.

[F. No. 11(3)/2011-CLFE]
N. RAVI SHANKER, Jt. Secy.

**Programme and Advertising Codes
prescribed under the Cable Television Network Rules, 1994**

(Rule 6 and Rule 7)

Rule- 6. Programme Code. – (1) No programme should be carried in the cable service which:-

- (a) Offends against good taste or decency;
- (b) Contains criticism of friendly countries;
- (c) Contains attack on religions or communities or visuals or words contemptuous of religious groups or which promote communal attitudes;
- (d) Contains anything obscene, defamatory, deliberate, false and suggestive innuendos and half truths;
- (e) is likely to encourage or incite violence or contains anything against maintenance of law and order or which promote anti-national attitudes;
- (f) Contains anything amounting to contempt of court;
- (g) Contains aspersions against the integrity of the President and Judiciary;
- (h) Contains anything affecting the integrity of the Nation;
- (i) Criticises, maligns or slanders any individual in person or certain groups, segments of social, public and moral life of the country ;
- (j) Encourages superstition or blind belief;
- (k) Denigrates women through the depiction in any manner of the figure of a women, her form or body or any part thereof in such a way as to have the effect of being indecent, or derogatory to women, or is likely to deprave, corrupt or injure the public morality or morals;
- (l) Denigrates children;
- (m) Contains visuals or words which reflect a slandering, ironical and snobbish attitude in the portrayal of certain ethnic, linguistic and regional groups ;
- (n) Contravenes the provisions of the Cinematograph Act, 1952.
- (o) is not suitable for unrestricted public exhibition.

“Provided that no film or film song or film promo or film trailer or music video or music albums or their promos, whether produced in India or abroad, shall be carried through cable service unless it has been certified by the Central Board of Film Certification (CBFC) as suitable for unrestricted public exhibition in India”.

Explanation – For the purpose of this clause, the expression “unrestricted public exhibition” shall have the same meaning as assigned to it in the Cinematograph Act, 1952 (37 of 1952);

(2) The cable operator should strive to carry programmes in his cable service which project women in a positive, leadership role of sobriety, moral and character building qualities.

(3) No cable operator shall carry or include in his cable service any programme in respect of which copyright subsists under the Copyright Act, 1957 (14 of 1957) unless he has been granted a licence by owners of copyright under the Act in respect of such programme.

(4) Care should be taken to ensure that programmes meant for children do not contain any bad language or explicit scenes of violence.

(5) Programmes unsuitable for children must not be carried in the cable service at times when the largest numbers of children are viewing.

(6) No cable operator shall carry or include in his cable service any television broadcast or channel, which has not been registered by the Central Government for being viewed within the territory of India".

"Provided that a cable operator may continue to carry or include in his cable service any Television broadcast or channel, whose application for registration to the Central Government was made on or before 11th May, 2006 and is under consideration, for a period of three months from the date of this notification, or till such registration has been granted or refused, whichever is earlier."

"Provided further that channels uplinking from India, in accordance with permission for uplinking granted before 2nd December, 2005, shall be treated as "registered" television channels and can be carried or included in the cable service."

Rule-7. Advertising Code. - (1) Advertising carried in the cable service shall be so designed as to conform to the laws of the country and should not offend morality, decency and religious susceptibilities of the subscribers.

(2) No advertisement shall be permitted which-

- (i) derides any race, caste, colour, creed and nationality;
- (ii) is against any provision of the Constitution of India.
- (iii) tends to incite people to crime, cause disorder or violence or breach of law or glorifies violence or obscenity in any way ;
- (iv) presents criminality as desirable;
- (v) exploits the national emblem, or any part of the Constitution or the person or personality of a national leader or a State dignitary;
- (vi) in its depiction of women violates the constitutional guarantees to all citizens. In particular, no advertisement shall be permitted which projects a derogatory image of women. Women must not be portrayed in a manner that emphasises passive, submissive qualities and encourages them to play a subordinate, secondary role in the family and society. The cable operator shall ensure that the portrayal of the female form, in the programmes carried in his cable service, is tasteful and aesthetic, and is within the well established norms of good taste and decency;
- (vii) exploits social evils like dowry, child marriage.
- (viii) promotes directly or indirectly production, sale or consumption of-
 - (A) cigarettes, tobacco products, wine, alcohol, liquor or other intoxicants;

provided that a product that uses a brand name or logo, which is also used for cigarettes, tobacco products, wine, alcohol, liquor or other intoxicants, may be advertised on cable service subject to the following conditions that:-

- (i) the story board or visual of the advertisement must depict only the product being advertised and not the prohibited products in any form or manner;
- (ii) the advertisement must not make any direct or indirect reference to the prohibited products;
- (iii) the advertisement must not contain any nuances or phrases promoting prohibited products;
- (iv) the advertisement must not use particular colours and layout or presentations associated with prohibited products;
- (v) the advertisement must not use situations typical for promotion of prohibited products when advertising the other products;

Provided further that-

- (i) the advertiser shall submit an application with a copy of the proposed advertisement along with a certificate by a registered Chartered Accountant that the product carrying the same name as cigarettes, tobacco products, wine, alcohol, liquor or other intoxicants is distributed in reasonable quantity and is available in substantial number of outlets where other products of the same category are available and the proposed expenditure on such advertising thereon shall not be disproportionate to the actual sales turnover of the product.

- (ii) All such advertisements found to be genuine brand extensions by the Ministry of Information and Broadcasting shall be previewed and certified by the Central Board of Film Certification as suitable for unrestricted public exhibition and are in accordance with the provisions contained in sub-clause (i) to (v) of the first proviso, prior to their telecast or transmission or retransmission.

(B) infant milk substitutes, feeding bottle or infant food.

(3) No advertisement shall be permitted, the objects whereof, are wholly or mainly of a religious or political nature; advertisements must not be directed towards any religious or political end.

(3A) No advertisement shall contain references which hurt religious sentiments.

(4) The goods or services advertised shall not suffer from any defect or deficiency as mentioned in Consumer Protection Act, 1986.

(5) No advertisement shall contain references which are likely to lead the public to infer that the product advertised or any of its ingredients has some special or miraculous or super-natural property or quality, which is difficult of being proved.

(6) The picture and the audible matter of the advertisement shall not be excessively 'loud';

(7) No advertisement which endangers the safety of children or creates in them any interest in unhealthy practices or shows them begging or in an undignified or indecent manner shall not be carried in the cable service.

(8) Indecent, vulgar, suggestive, repulsive or offensive themes or treatment shall be avoided in all advertisements.

(9) No advertisement which violates the Code for self-regulation in advertising, as adopted by the Advertising Standard Council of India (ASCI), Mumbai, for public exhibition in India, from time to time, shall be carried in the cable service.

(10) All advertisement should be clearly distinguishable from the programme and should not in any manner interfere with the programme viz., use of lower part of screen to carry captions, static or moving alongside the programme.

(11) No programme shall carry advertisements exceeding twelve minutes per hours, which may include up to ten minutes per hour of commercial advertisements, and up to two minutes per hour of the channel's self-promotional programmes.

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No. DM/30/2021-DM
Government of India
Ministry of Information & Broadcasting
Digital Media Division

Shastri Bhawan, New Delhi
Dated: 10th June, 2021

To,

1. Digital news publishers
2. Publishers of online curated content (OTT platforms)
3. Associations of digital media publishers

Subject: Representations regarding implementation of IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021

Madam/Sir,

The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (hereinafter called Digital Media Rules, 2021) was notified by the Central Government on 25.02.2021. Part III of the Rules relating to Digital News Publishers and Online Curated Content Providers (OTT Platforms) are administered by the Ministry of Information and Broadcasting.

2. Since the notification of these Rules, several developments have taken place for its implementation, including communication sent to over 500 entities in March 2021 regarding the Rules and its compliance, interactions held in March 2021 by the Hon'ble Minister for Information and Broadcasting with digital news publishers and OTT platforms, issue of FAQs and various press releases relating to implementation of these Rules (all of which are placed on the Ministry's website), and conducting webinars with the various stakeholders. The formats for furnishing information by the eligible entities were also sent by email and placed on the Ministry's website on 26th May, 2021. More than 500 publishers have already submitted details in the requisite format. Reminders have been sent to the publishers who have not yet submitted the information. Further, several associations/organizations have informed the Ministry regarding setting up of self-regulating bodies which constitute Level II of the Grievance Redressal Mechanism under the Rules.

3. With regard to the implementation of the Rules, the Ministry has received representations from various associations/organizations. One category of the representations received is that the digital arm of the traditional media entities (Print and TV) be excluded/exempted from the applicability of the Rules. In this regard, various arguments have been advanced, including the following:-

- i. The news organizations have the same or common newsroom for the Print, TV and Digital journalists and the content created by them is already subjected to

several uniform set of guidelines/standards including the Norms of Journalistic Conduct framed by the Press Council of India (PCI), the Programme and Advertising Codes under the Cable Television Networks (Regulation) Act, 1995 and the Rules framed there under;

- ii. The newspaper websites follow self-regulation guidelines of a newspaper as the website is an extension of the newspaper in all respects except for the time scale of frequency of publication, and the newspapers follow stringent self-regulation guidelines and strictly adhere to the Norms of Journalistic Conduct of the Press Council of India.
- iii. The electronic news media is no different from print media and majority of the content posted on the digital platforms is already a part of the TV broadcast, which is subject to government regulations.
- iv. The digital platforms while hosting news feed on OTT platforms are being burdened to adhere and comply with the self-regulatory/oversight mechanism which are resulting in discouraging these platforms from hosting digital news feed of the TV news broadcasters; further the OTT platforms believe that by hosting the news feed of the TV news broadcasters on their platforms, they may be made liable for the content carried under the Digital Media Rules, 2021. Hence, there is a threat to the news feed from being removed from the OTT platforms.

4. The aforementioned representations have been examined in the Ministry in the light of the Digital Media Rules, 2021, the existing statutes, mainly the Cable Television Networks (Regulation) Act, 1995, the Press and Registration of Books Act, 1867, the Press Council Act, 1978, the Programme Code under the Cable Television Network Rules, 1994, Norms of Journalistic Conduct under the Press Council Act, the Uplinking & Downlinking Guidelines of 2011 for private TV channels, etc. In the light of these it is contended as under:-

(i) The Code of Ethics laid down under the Digital Media Rules, 2021 provide that the digital news publishers shall adhere to the codes which has three elements -- (a) the Programme Code under the Cable Television Networks (Regulation) Act; (b) the Norms of Journalistic Conduct under the Press Council Act; and (c) that content which is prohibited under any law for the time being in force be not published. The traditional media publishers (TV and Print) are already regulated by these norms. Accordingly, extending these norms to the digital news platforms of the organizations which are in the business of traditional news (TV and Print) is no new or additional compliance.

(ii) While the Press Council Act covers newspapers (including replica e-version of a newspaper), the news portals/websites (.coms, .ins, etc.) are not covered under that Act. Content also differs across the traditional and digital platforms. Accordingly, news portals/websites even of the organizations having traditional newspapers will be covered under the said Rules.

(iii) Similarly, with regard to traditional TV news entities, while content appearing on a traditional TV channel is covered under the content regulations framed under the Cable Television Networks (Regulation) Act (Programme Code, etc) read along with the Uplinking and Downlinking Guidelines for private TV channels (2011), the digital news portals/websites of these traditional TV organizations are not covered under that Act/Guidelines. Further, the content may be different between the traditional and digital platforms. As a case in point, in a recent decision, the News Broadcasters Standards Authority (NBSA) held that a news which appears only on the website (.com/.in) of an organization but not its traditional TV platform would be outside the scope of its jurisdiction.

(iv) While newspapers are regulated by RNI under the Press & Registration of Books Act, 1867 and satellite TV channels are granted permission under the Uplinking and Downlinking Guidelines, 2011, the digital news portals/websites are not covered under these laws/guidelines.

5. Having regard to the above, the rationale for including the digital news portals/websites of the organizations having traditional news platforms under the ambit of the Digital Media Rules, 2021 is well reasoned. Making any exception of the nature proposed will be discriminatory to the digital news publishers who do not have a traditional TV/print platform. As already mentioned, since the Code of Ethics requires such digital platforms to follow the existing norms/content regulations which are in vogue for the traditional print and TV media, there is no additional regulatory burden for such entities. Accordingly, the request for exempting the digital news content of such organizations from the ambit of the Digital Media Rules, 2021, cannot be acceded to.

6. However, the Ministry does recognize that entities having traditional TV and print media are already registered/enrolled with the Government of India either under the Press and Registration of Books Act (by the Registrar of Newspapers for India) or under the Uplinking and Downlinking Guidelines of 2011 of Ministry of Information and Broadcasting. Accordingly, while notifying the forms for furnishing information by the digital news publishers, a distinction has been made between organizations having traditional news media and other digital news publishers, and for the former, the information sought is bare minimum. As claimed by the aforementioned entities, the digital version/digital publication of the organizations having traditional news platforms (TV and Print) may be following internal guidelines of the self-regulating bodies. Accordingly, if the organizations so desire, they can request the same self-regulatory bodies to serve as the Level II of the self-regulatory mechanism, after ensuring consistency with the Digital Media Rules, 2021.

7. An apprehension has been raised relating to perceived reluctance of OTT platforms in hosting news feed of digital news publishers on their platform on the pretext that the content contained therein would be the regulatory responsibility of the hosting OTT platform under the Digital Media Rules, 2021. In this regard two points need to be clarified. First and foremost

“online curated content” is defined under clause (q) of rule 2 of the Digital Media Rules, 2021 which specifically excludes “news and current affairs content”. When any news and current affairs content of a digital news publisher is transmitted on an OTT platform, such content would be outside the regulatory responsibility of that platform. However, if any OTT platform receives a grievance related to such news and current affairs content, it may transfer the same to the concerned publisher of that content. Accordingly, there should not be any apprehension on this count either to the digital news publishers or to the OTT platforms.

8. The second set of representations received by the Ministry are regarding certain concerns relating to increased compliance burden on publishers, excessive Governmental control by way of emergency powers (under Rule 16), the oversight mechanism (under Rule 13) through the Inter-Departmental Committee, and the prescription relating to the composition of the self-regulating body and its registration by the Government.

9. At the outset, it may be mentioned that the Rules have been framed under the Information Technology Act, 2000, taking into account the various legal aspects and are consistent with the provisions of the Act. On the issue of increased compliance burden due to the stipulation of a 3-Tier regulatory mechanism, it may be mentioned that Level I requires a simple mechanism for a digital publisher to redress the grievances relating to the Code of Ethics within a certain time frame. This is considered appropriate from the view point of providing a forum for citizens who may have certain grievances relating to Code of Ethics. However, the publisher can at its level decide whether or not such grievance is in fact a violation of Code of Ethics and convey the same to the complainant. It may also be made clear that rules explicitly mention that only grievances on content relating to Code of Ethics (and not of any other nature) need be addressed. On the issue of excessive compliance burden for attending to a large number of grievances within a timeframe of 15 days especially for the small and medium size publishes, till date the Government has not received any representation from any particular digital news publisher citing the exact number of grievances received by it relating to the Code of Ethics and the difficulty faced by it in the redressal of grievances. In case such a representation is brought before the Ministry, the matter would be considered appropriately.

10. With regard to Level II viz. the self-regulatory mechanism provided for in the Digital Media Rules 2021, already the traditional TV media organizations have formed various associations to adjudicate grievances relating to violation of Programme Code under the Cable Television Network Act, 1995 and their internal codes/guidelines. Hence there is a prevalent system of self-regulation for the traditional news platforms. The requirement of the Level II under the Digital Media Rules, 2021 is only an extension of an existing institutional practice. Further, the composition of the self-regulating body would be decided entirely by the publishers and the Government has no role to play. The requirement of registration of such bodies with the Government is only to ensure that the composition is in accordance with the Rules and the body undertakes to perform the functions laid down under the Rules. It is neither stipulated nor intended for the Government to either interfere or obstruct the formation of the self-regulating body including its composition.

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11. With regard to the Oversight Mechanism and the role of the Central Government, some concerns have been expressed including excessive Government control through this level over the functioning of the digital news publishers and OTT platforms. In this regard it may be mentioned that even at present, in respect of traditional TV channels, there is an oversight mechanism in the Government by way of an Inter-Ministerial Committee (IMC) which looks at certain grievances relating to the violation of the Programme Code, a mechanism which is in existence since 2005. Over the last over 15 years, the IMC has given recommendations by way of Advisories, Warnings, etc in respect of a large number of cases involving content of both news and non-news channels in relation to the Programme Codes and in almost every such case, the TV channels have accepted the recommendations of this Committee. The IMC mechanism has stood the test of time. The concept of Inter Departmental Committee (IDC) is similar. It may be mentioned that the Inter-Departmental Committee (IDC) under the Rules would consist of, apart from representatives from various Departments, persons with domain expertise from other organizations also. Further, Level III is visualized as a residual level, insofar as the grievances which do not get redressed at the first and second levels would go to the IDC. Accordingly, the apprehension of excessive Governmental control through these mechanisms is misplaced.

12. On the issue of the Government having emergency powers under Rule 16 of the Digital Media Rules, this matter has already been clarified by this Ministry's communication dated 27.02.2021 (copy placed on the Ministry's website) wherein it has been mentioned that such a provision already existed since 2009 under the Information Technology Act, 2000.

13. In the overall context, the Digital Media Rules, 2021 may be complied with by the digital news publishers and OTT platforms without any misapprehensions. The publishers may furnish the requisite information in the prescribed format immediately, take urgent steps for appointing a Grievance Officer (if not already done) and place all relevant details on public domain, and constitute self-regulatory bodies through mutual consultation so that the grievances are addressed at the level of publishers (or their self-regulating bodies) themselves.

14. This issues with the approval of the competent authority.

Yours faithfully,



10/06/2021

(Kshitij Aggarwal)
Assistant Director (DM)

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ANNEXURE R-8



सत्यमेव जयते



Norms of Journalistic Conduct

Edition 2019

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Press Council of India
NORMS OF JOURNALISTIC CONDUCT



2019

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Preface

Journalists are to keep their personal feeling out of their reporting, they should write, what they know not what they think and give all sides a chance to be heard. Five Ws. Who, What, When, Where and Why should guide them. The Press is held as the fourth state but its potentiality as the fourth pillar of democracy was realised only after independence.

The Press is a mass communicator, representative of the people and voice of the voiceless which has achieved the position of a natural ally of the society for its existence, projection and well-being.

In pursuit of its role, however, the journalists have to follow a code of conduct and it is the obligation of the Press Council of India to build up a code of conduct in accordance with its high professional standard. To achieve this, the 2019 edition of Norms of Journalistic Conduct based on the adjudications by the council is being presented with the hope that it shall guide all those who are involved in the dissemination of news.

I hope and trust the readers will find this 2019 edition of Norms of Journalistic Conduct as useful and informative.

Justice Chandramauli Kumar Prasad
Chairman
Press Council of India

NORMS OF JOURNALIST CONDUCT

Part A: Principles and Ethics

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

1. Accuracy and Fairness

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

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

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

2. Advertisements

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

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

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

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

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

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

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

- xxii) The newspapers and periodicals should scrutinize the advertisement inputs from ethical as well as legal angles in view of the editor's responsibility for all contents including advertisement, under Section 7 of PRB Act, 1867. Revenue generation alone cannot and should not be the sole aim of the Press, juxtaposed much larger public responsibility.
- xxiii) Publication seeking Kidney from willing altruistic donor is not to be made.*
- xxiv) Journalists/Editors shall disclose the identity of advertiser or the person at whose instance advertisement is published.
- xxv) Newspaper shall not publish any advertisement intending to pass on as news using names and photographs of Hon'ble President and Prime Minister of India.
- xxvi) Newspaper(s) while publishing **Advertisement/ Advertorials** similar to news, shall be printed with a Heading "**Advertisement/Advertorials**" in bold letters with the font size equal to sub headings appearing in the page.

3. **Astrological Prediction**

The promotion of astrological prediction and superstitious practices is likely to produce an unsettling effect on the minds of the readers, and is thus undesirable. The editors

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

of general interest dailies and periodicals who believe in promoting a scientific temper and in combating superstition and fatalism, should avoid publication of astrological predictions. Readers who are interested in the subject of astrology can turn to specialized publications on the subject.

4. Caste, Religion or Community References

- i) In general, the caste identification of a person or a particular class should be avoided, particularly when in the context it conveys a sense or attributes a conduct or practice derogatory to that caste.
- ii) Newspapers are advised against the use of word 'Harijan' which has been objected to by some, and shall use the word Schedule Caste as per Article 341.*
- iii) An accused or a victim shall not be described by his caste or community when the same does not have anything to do with the offence or the crime and plays no part either in the identification of any accused or proceeding, if there be any.
- iv) Newspaper should not publish any fictional literature distorting and portraying the religious or well known characters in an adverse light offending the susceptibilities of large sections of society who hold those characters in high

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

esteem, invested with attributes of the virtuous and lofty.

- (v) Commercial exploitation of the name of prophets, seers or deities is repugnant to journalistic ethics and good taste.
- vi) It is the duty of the newspaper to ensure that the tone, spirit and language of a write up is not objectionable, provocative, against the unity and integrity of the country, spirit of the constitution, seditious and inflammatory in nature or designed to promote communal disharmony. It should also not attempt to promote balkanisation of the country.
- vii) One of the jobs of the journalists is also to bring forth to the public notice the plight of the weaker sections of society. They are the watchdogs on behalf of the society of its weaker sections.
- viii) While the changing norms of society have to be kept in mind, newspaper should also take due care in avoiding publication which may hurt sentiments of general public particularly on the occasion of days holding special significance.
- ix) To maintain communal harmony and bind the social fabric of the country, press ought to be more careful while publishing names of any organization and alleging their involvement in terrorist activities.

- x) Plea of technical error to defend provocative and out of context statement are inadmissible and constitute irresponsible journalism.
- xi) Caricature of a deity to depict a political scenario at relevant time cannot be said to be objectionable.
- xii) A news item published on the basis of book may not be in tune with general belief of the members of religious organization but on this ground alone the news item cannot be termed as illegal and unethical.
- xiii) The domain of ethics is much larger than law and ethicality of an action needs to be judged from a common man's point of view. The newspaper, therefore, may not publish matter that could portray the religious characters in an adverse light or offend the religious susceptibilities of large section of society who hold those characters, invested with attributes of the virtuous and lofty in high esteem.
- xiv) The press is expected to use its power to promote and contribute in maintaining communal harmony.
- xv) The fabric of a community is very delicate. The newspapers and periodicals should be sensitive in use of words with different connotation at different places and in different languages.
- xvi) The word/expression "Dalit" shall not be used to provoke or demean a community.

5. Caution Against Defamatory Writings

- i) Newspaper should not publish anything which is manifestly defamatory or libellous against any individual/organisation unless after due care and verification, there is sufficient reason/evidence to believe that it is true and its publication will be for public good.
- ii) Truth is no defence for publishing derogatory, scurrilous and defamatory material against a private citizen where no public interest is involved.
- iii) No personal remarks which may be considered or construed to be derogatory in nature against a dead person should be published except in rare cases of public interest, as the dead person cannot possibly contradict or deny those remarks.
- iv) The Press has a duty, discretion and right to serve the public interest by drawing reader's attention to citizens of doubtful antecedents and of questionable character but as responsible journalists they should observe due restraint and caution in hazarding their own opinion or conclusion in branding these persons as 'cheats' or 'killers' etc. The cardinal principle being that the guilt of a person should be established by proof of facts alleged and not by proof of the bad character of the accused. In the zest to

expose, the Press should not exceed the limits of ethical caution and fair comment.

- v) The Press shall not rely on objectionable past behaviour of a citizen to provide the background for adverse comments with reference to fresh action of that person. If public good requires such reference, the Press should make pre-publication inquiries from the authorities concerned about the follow up action, if any, in regard to earlier adverse actions.
- vi) Where the impugned publication is manifestly injurious to the reputation of the complainant, the onus shall be on the respondent to show that it was true or to establish that it constituted fair comment made in good faith and for public good.
- (vii) Newspapers cannot claim privilege or licence to malign a person or body claiming special protection or immunity on the plea of having published the item as a satire under special columns such as '*gossip*', '*parody*' etc.
- (viii) Publication of defamatory news by one paper does not give licence to others to publish news/information reproducing or repeating the same. The fact of publication of similar report by another publication does not bestow the status of accuracy on the charges.

- (ix) It is necessary that the press realise its responsibility to the society due to the unique position enjoyed by it in being able to interact directly with the citizenry and utilize its advantageous position for the betterment of the society and the advancement of the country rather than indulging in giving credence to rumours and sensationalism. It is also necessary that the press, particularly the small local press, learn to appreciate the clear distinction between matters of 'public interest' and 'those in public interest'. While gossips and social dealings may be found to be of interest by the public but they serve no public purpose or interest and the press should scrupulously avoid wasting its precious space on such matters.
- (x) Insertion of out-of-context, uncalled for and irrelevant statements likely to malign a person or an organisation must be eschewed.
- (xi) Even while a newspaper has the liberty or even duty to report political developments, that reporting may not be with angularity. Freedom of Press does not give licence to a newspaper to malign a political leader or mar his future political prospects by publishing fake and defamatory writings.
- (xii) It must be remembered by the Press that the freedom of speech and expression enshrined in the democratic set up and enjoyed by the fourth estate also casts on it a responsibility. The

newspapers are not expected to use it as a tool by itself creating evidence and later using the evidence to make false propaganda in its own journal.

- (xiii) The Press deserves accolades for bringing to light the inducements offered to influence their reporting and such exposure will not amount to defamation.
- (xiv) **Locus Standi** In cases involving personal allegations /criticism, only the concerned person enjoying the *locus standi* can move the plaint or claim right to reply. However, a representative organisation of persons attached to an organisation or a sect / group has the *locus standi* to move complaints against a publication directly criticising the conduct of a leader.
- (xv) **Public Interest and Public Bodies** As a custodian of public interest, the Press has a right to highlight cases of corruption and irregularities in public bodies but such material should be based on irrefutable evidence and published after due inquiries and verification from the concerned source and after obtaining the version of the person/authority being commented upon. Newspapers should refrain from barbed, stinging and pungent language and ironical/satirical style of comment. The attempt of the press should be to so shake up the institutions as to improve their working, not to destroy them

or the public confidence in their working or demoralize the workforce. A corresponding duty of course devolves on them to ensure that in doing so they present a fair and balanced report, uninfluenced by any extraneous consideration. The Press as a custodian of public interest and a protector of its rights is also expected to bring correct information to its notice so that it is able to correctly judge those to whom it has entrusted the responsibility of running the country.

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

6. a) Caution in Criticising Judicial Acts

- i) Excepting where the court sits 'in-camera' or directs otherwise, it is open to a newspaper to report pending judicial proceedings, in a fair, accurate and reasonable manner. But it shall not publish anything:-
- which, in its direct and immediate effect, creates a substantial risk of obstructing, impeding or prejudicing seriously the due administration of justice; or
 - is in the nature of a running commentary or debate, or records the paper's own findings conjectures, reflection or comments on

issues, sub-judice and which may amount to abrogation to the newspaper the functions of the court; or

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

6. b) Reporting News Pertaining to Court Proceedings

- i) Before publishing a news item about court proceedings, it will be appropriate for the correspondent and editor to ascertain its genuineness, correctness and authenticity from the records so that the concerned person can be held guilty and accountable for furnishing incorrect facts or wrong information about the court proceedings.
- ii) When proceedings of the Courts are held in public view in which the reporters of the newspaper are also present, it is not necessary for the newspaper to obtain the certified copy of Order before publication of the news.
- iii) Observations of a Court during hearing are often an attempt to solicit information, and not a part of records/Orders. Thus, there is need for a reporter to understand the difference to report correctly.
- iv) The media should not carry names of legal practitioners or name of the judges concerned, who dealt with particular cases.
- v) In the matter of interpretation of a court's judgments, a newspaper is expected to act reasonably and not quote selectively. They are also expected to clearly identify the selection so made.

7. Confidence to be Respected

If information is received from a confidential source, the confidence should be respected. The journalist cannot be compelled by the Press Council to disclose such source; but it shall not be regarded as a breach of journalistic ethics if the source is voluntarily disclosed in proceedings before the Council by the journalist who considers it necessary to repel effectively a charge against him/her. This rule requiring a newspaper not to publish matters disclosed to it in confidence, is not applicable where:

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

8. Conjecture, Comment and Fact

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

- iv) Expression such as 'incompetent' or 'impotent' need to be read in the context of a political commentary, to determine the offensiveness.

9. Corrections

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

10. Covering Communal Disputes/Clashes

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

strained relations between the communities/religious groups concerned, or which has a potential to exacerbate the trouble, shall be avoided.

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

thus has necessarily to be different. In times of crisis, facts unadorned and simply put, with due care and restraint, cannot be reasonably objected to in a democracy. However, a heavy responsibility devolves on the author of opinion articles. The author has to ensure that not only are his or her analysis free from any personal preferences, prejudices or notions, but also they are based on verified, accurate and established facts and do not tend to foment disharmony or enmity between castes, communities and races.

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

11. Criticism of Public Figures/Music Reviews

- i) An actor or singer who appears on a public stage submits his performance to the judgement of public and as such the critics' comments having proximate nexus with the merits of artists performance cannot be held to be defamatory. However, the critics should refrain from writing anything, which could, be construed as remotely casting cloud on the artist's personal credibility.
- ii) An author cannot question the critical review of a book, unless it is actuated by malafide simply because some of the editors and scholars have

commended the book, would not mean that other critiques have no right to express a contrary view.

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

12. Editors' Discretion

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

the editor is satisfied that the remainder is substantially true and its publication will be for public benefit.

- iv) It is a prerogative of editor to decide prominence of news it deserves in newspaper.
- v) Bearing in the mind the clear distinction between a 'news report' and 'an opinion article', the Editor has a liberty to edit an article but this liberty cannot be extended so as to delete the vital part or core contents of the article without seeking permission of the author, which may distort the intent, purpose and meaning behind the article.
- vi) Headline's should be carefully drawn adjudged against their instant impact on the readers.
- vii) Editor is responsible for all facts printed in newspaper(s).

13. Foreign Relations

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

14. Fraudulent Activities

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

15. Gender Based Reporting

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

16. Glorification/Encouragement of Social Evils to be Eschewed

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

17. Headlines:

- i) In general and particularly in the context of communal disputes or clashes:
 - a. Provocative and sensational headlines are to be avoided;
 - b. Headings must reflect and justify the matter printed under them;
 - c. Headings containing allegations made in statements should either identify the body or the source making it or at least carry quotation marks.
- ii) Headlines of an article/news story or news item attributes certain act on part of a person. while choosing the headline the paper should take care that they reflect the text of the report.

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

DO'S

- i) Media must inform and educate the people, not alarm or scare them.
- ii) Be objective, factual and sensitive.
- iii) Keep abreast with changing realities of fast-evolving infection.
- iv) Use appropriate language and terminology that is non-stigmatising.
- v) Ensure headlines are accurate and balanced.
- vi) Be responsible; give all sides of the picture, using voices of people living with HIV and AIDS (PLHIVs).
- vii) Dispel misconceptions about prevention and transmission.
- viii) Debunk myths about miracle cures and unscientific claims of protection from infection.
- ix) Highlight positive stories without underplaying seriousness of the issue.
- x) Uphold confidentiality of infected people, their families and associates.
- xi) Ensure photographs do not breach their confidentiality.
- xii) Ensure photo captions are accurate.

- xiii) Ensure gender sensitive reporting and avoid stereotyping.
- xiv) Obtain data from authorised sources as inaccurate reports have adverse impact on morale and increase stigma.
- xv) Journalists are responsible for ensuring interviewees understand repercussions of revelations/identification.
- xvi) Ensure informed consent, in written form wherever possible.
- xvii) Balance coverage of a negative story like HIV-related suicide or incidence of discrimination by including contacts of helplines/counselling centres.
- xviii) Broaden reportage to examine impact of infection on economic, business, political and development issues.
- xix) When in doubt contact the local network of positive people or state AIDS control society or existing terminology guidelines for clarification.
- xx) Ensure questions are not deeply personal or accusatory.
- xxi) Show PLHIVs in a positive light by portraying them as individuals instead of 'victims'.

DONT'S

- i) Don't sensationalise the story.
- ii) Don't make value judgements that seek to blame PLHIVs.
- iii) Don't use terms like 'scourge' to describe the infection or describe PLHIVs as AIDS carrier, prostitute, drug addict, AIDS patient/victim/sufferer.
- iv) Don't focus needlessly on how a PLHIV was infected.
- v) Don't identify children infected and affected by HIV and AIDS by name or through a photograph even with consent.
- vi) Don't use hidden cameras.
- vii) Avoid alarmist reports and images of the sick and dying that convey a sense of gloom, helplessness and isolation.
- viii) Don't use skull, crossbones, snakes or such visuals as graphics.
- ix) Avoid references to caste, gender or sexual orientation.
- x) Don't reinforce stereotypes about sexual minorities including those who are Lesbian, Gay, Bisexual or Transgender (LGBT).

- xi) Don't portray infected persons as victims, culprits or objects of pity.
- xii) Don't promote misleading advertisements related to HIV, STIs, skin diseases, tuberculosis and other opportunistic infections .
- xiii) Don't breach the confidentiality of those opting for voluntary testing.

19. Illegal Reproduction

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

20. Internal Disputes

(a) Management-Editor Relationship

- i) There is a well-recognised distinction between the editor and the journalists on the one hand and the Manager, the Executive or the Administrator on the other, whatever the nomenclature that they may carry in a particular newspaper establishment. The duties and responsibilities of the editor and the management differ and whatever the co-ordination may be required to efficiently manage the establishment to bring out the journal, the

functions of the two are separate and have to be kept as such.

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

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

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

In the running of the newspaper, the managerial, administrative or business side of the newspaper has to be kept independent of its editorial side and should not be allowed to encroach upon or interfere with the editorial section. This precaution is to be taken even when the owner and the editor is the same. The

proprietor must not allow his business interests and considerations to either dominate or interfere with the newspapers obligation to the people.

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

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

If the co-ordination between the different departments including the editorial is effected by the Brand Management without in any way interfering with the freedom of the editor to include or exclude news or views, the length or details as well as their language and the place where they are to be published, and the prominence with which they should appear, there may not be much grievance that such co-ordination is in violation of the freedom of the editor. However, if the choice of the editor with regard to selection of material in any manner is sought to be interfered with, it is undoubtedly an unwarranted encroachment on the said freedom.

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

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

Direction of the newspaper management to the reporter to perform administrative / commercial side of the duty other than his journalistic duty is an unethical practice and impinges on the independence of journalists, destroying the functional relationship.

21. Investigative Journalism, its Norms and Parameters

Investigative reporting has three basic elements:

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

The first norm follows as a necessary corollary from:

- (a) That the investigative reporter should, as a rule, base his story on facts investigated, detected and verified by himself and not on hearsay or on derivative evidence collected by a third party, not checked up from direct, authentic sources by the reporter himself.
- (b) There being a conflict between the factors which require openness and those which necessitate secrecy, the investigative journalist should strike and maintain in his report a proper balance between openness on the one hand and secrecy on the other, placing the public good above everything.
- (c) The investigative journalist should resist the temptation of quickies or quick gains conjured up from half-baked incomplete, doubtful facts, not fully checked up and verified from authentic sources by the reporter himself.

- (d) Imaginary facts, or ferreting out or conjecturing the non-existent should be scrupulously avoided. Facts, facts and yet more facts are vital and they should be checked and cross-checked whenever possible until the moment the paper goes to Press.
- (e) The newspaper must adopt strict standards of fairness and accuracy of facts. Findings should be presented in an objective manner, without exaggerating or distorting, that would stand up in a court of law, if necessary.
- (f) The reporter must not approach the matter or the issue under investigation, in a manner as though he were the prosecutor or counsel for the prosecution. The reporter's approach should be fair, accurate and balanced. All facts properly checked up, both for and against the core issues, should be distinctly and separately stated, free from any one-sided inferences or unfair comments. The tone and tenor of the report and its language should be sober, decent and dignified, and not needlessly offensive, barbed, derisive or castigatory, particularly while commenting on the version of the person whose alleged activity or misconduct is being investigated. Nor should the investigative reporter conduct the proceedings and pronounce his verdict of guilt or innocence against the person

whose alleged criminal acts and conduct were investigated, in a manner as if he were a court trying the accused.

- (g) In all proceedings including the investigation, presentation and publication of the report, the investigative journalist newspaper should be guided by the paramount principle of criminal jurisprudence, that a person is innocent unless the offence alleged against him is proved beyond doubt by independent, reliable evidence.
- (h) The private life, even of a public figure, is his own. Exposition or invasion of his personal privacy or private life is not permissible unless there is clear evidence that the wrongdoings in question have a reasonable nexus with the misuse of his public position or power and has an adverse impact on public interest.
- (i) Though the legal provisions of Criminal Procedure do not in terms, apply to investigating proceedings by a journalist, the fundamental principles underlying them can be adopted as a guide on grounds of equity, ethics and good conscience.
- (j) To say that the press should not publish any information, till it is officially released would militate against the spirit of investigative

journalism and even to an extent the purpose of journalism.

- k) When any news item affecting somebody's character is proposed to be published in the newspaper on the basis of any CD or other such device then first the authenticity of such evidence should first be ascertained through a forensic expert.

22. Letters to Editor

- i) An editor who decides to open his columns for letters on a controversial subject, is not obliged to publish all the letters received in regard to that subject. He is entitled to select and publish only some of them either in entirety or the gist thereof. However, in exercising this discretion, he must make an honest endeavour to ensure that what is published is not one-sided but represents a fair balance between the views for and against with respect to the principal issue in controversy.
- ii) In the event of rejoinder upon rejoinder being sent by two parties on a controversial subject, the editor has the discretion to decide at which stage to close the continuing column.
- iii) Editor may have a right to edit a 'letter to editor' but such editing should not deviate from the intended view.

23. Newspapers May Expose Misuse of Diplomatic Immunity

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

24. Newspapers to Avoid Crass Commercialism

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

- (iv) The media house must retain its impartiality in functioning as media house and reporting cannot be permitted to become subservient to other business interests which the owner of the media house may have. When such private interest conflict with public duty of such vast magnitude, segregation of the two is not only justified but essential.

25. Newspapers to Eschew Suggestive Guilt

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

26. Non-return of Unsolicited Material

- i) A paper is not bound to return unsolicited material sent for consideration of publication. However, when the same is accompanied by stamped envelope, the paper should make all efforts to return it.
- ii) Whenever articles from the contributors are published free of remuneration, there must be

an agreement not to pay and the newspaper should follow this practice as a rule.

27. Norms for Photo Journalism

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

DO'S'

1. Images should be accurate and comprehensive and the subjects be presented in proper context.
2. All subjects should be treated with respect and dignity. Special consideration be given to vulnerable subjects and victims of crime or tragedy be treated compassionately. Private grief be intruded only when the public has an overriding and justifiable interest in sharing or viewing it.
3. While editing a visual, the maintenance of the integrity of the content and context of the photographic images should be ensured. Images should not be manipulated neither should there be addition or alteration in sound in any way

that can mislead viewers or misrepresent subjects.

4. Strive to be unobtrusive and humble in dealing with subjects.
5. The integrity of the photographic moment should be respected.
6. Pictures should not reflect anything that is obscene, vulgar or offensive to good public taste.
7. Strive to ensure that the public's business is conducted in public. Defend the rights of access for all journalists.
8. Strive for total and unrestricted access to subjects and recommend alternatives to shallow or rushed opportunities.
9. Seek a diversity of viewpoints and work to show unpopular or unnoticed points of view.
10. Strive by example and influence to maintain the spirit and high standards expressed in this code. When confronted with situations in which proper action is not clear, seek the counsel of those who exhibit the highest standards of the profession.

DONT'S

1. While photographing subjects do not intentionally contribute to, alter, or seek to alter or influence events.
2. The privacy of an individual should not be intruded or invaded unless it is outweighed by

genuine overriding public interest, not by a prurient or morbid curiosity.

3. While covering terrorist attacks, communal riots or other acts of violence, do not show mangled corpses or such other images as cause revulsion or terror or rouse communal or sectarian passions.
4. Do not get manipulated by staged photo opportunities.
5. Do not accept gifts, favours or compensation from those who might seek to influence the coverage.
6. Avoid political, civic or business involvements or employment that could compromise or appear to compromise their professional independence.
7. No payment or material reward should be made to the sources or subject for information or participation.
8. The work should not reflect any kind of biases.
9. Do not intentionally sabotage the efforts of other journalists.
 - ii) Highlighting gambling menace being ignored by the Police through a photograph of police official standing near a covert gambling den only for symbolic purpose, cannot be considered as unethical or violation of journalistic norms.

- iii) 'Dignity in death' is a principle widely observed in civil society and unless the photographic depiction of such event directly impacts the public interest or purpose, the media would be well advised to avoid it.

28. Obscenity and Vulgarity to be Eschewed

- i) Newspapers/journalists shall not publish anything which is obscene, vulgar or offensive to public good taste.
- ii) Newspapers shall not display advertisements which are vulgar or which, through depiction of a woman in nude or lewd posture, provoke lecherous attention of males as if she herself was a commercial commodity for sale.
- iii) Whether a picture is obscene or not, is to be judged in relation to three tests; namely
 - a) Is it vulgar and indecent?
 - b) Is it a piece of mere pornography?
 - c) Is its publication meant merely to make money by titillating the sex feelings of adolescents and among whom it is intended to circulate? In other words, does it constitute an unwholesome exploitation for commercial gain. Other relevant considerations are whether the picture is relevant to the subject matter of the

magazine. That is to say, whether its publication serves any preponderating social or public purpose, in relation to art, painting, medicine, research or reform of sex.

- iv) A photograph or a painting is a work of art and the artist enjoys artistic liberty in its portrayal. However, it is to be understood that a work of art is enjoyed, judged and appreciated by the connoisseurs. The pages of a newspaper may not be the most appropriate place for such painting.
- v) The globalisation and liberalisation does not give licence to the media to misuse freedom of the press and to lower the values of the society. The media performs a distinct role and public purpose which require it to rise above commercial consideration guiding other industries and businesses. So far as that role is concerned, one of the duties of the media is to preserve and promote our cultural heritage and social values.
- vi) Columns such as 'Very Personal' in a newspaper replying to personal queries of the readers must not become grossly offensive presentations, which either outrage public decency or corrupt public moral.
- vii) The attempt of the press should be to ensure coverage that is in keeping with the norms of the society at large and not merely a few. It is also our duty to prevent the degeneration of

culture and standards and press with its reach and impact carries an immense potential in moulding the psyche and thought process of a society.

- viii) The Indian reader is much more mature and able to appreciate good journalism and in the long run, the attempts to copy the west by promoting the 'so-called popular permissiveness' may defeat the very aim of the paper to boost circulation.
- ix) The newspaper may expose the instances of immoral activities in public places through its writings but with proper caution of restrained presentation of news or photographic evidence.
- x) The newspapers should take due care of people's sentiments while publishing articles on sexuality.

29. Paid News

- i) Newspaper should specifically mention "Marketing Initiative" on Supplement/special edition itself to distinguish them from various reports.
- ii) The newspaper should not mis-construe or misquote the statements given by leader. The statements quoted in editorial should project the true spirit of what is being tried to be conveyed by them.
- iii) Columns of news items which largely indicate names of voters on Caste basis and supporters of the candidate of particular political party, such

tenor and manner of presentation of news establish the report to be paid news.

- iv) Political news published in competing newspaper with similar content strongly suggests such reports to be paid news.
- v) Two newspapers publishing same news item verbatim during election days is not accidental and it is evident that such news items have been published for consideration.
- vi) Manner of presentation of a news item that to in a favor of a particular party as also the appeal for voting in a favor of a particular party is suggestive of paid news.
- vii) Projecting a candidate's success in Election who is yet to file a nomination is suggestive of paid news.
- viii) News Reports on Campaign meeting and states enthusiasm because film stars were present cannot be termed as paid news.
- ix) While covering news on election, the newspapers are advised to ensure balance in publishing report/interview of candidates.
- x) During the course of election, subject to conditions laid down by the Election Commission of India, newspapers are free to make an honest assessment of prospects of candidates or the parties and its publication would not be paid news so long it is not

established that consideration passed on for such publication.

30. Parameters of Right of Press to Comment on Profession

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

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

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

- iii) Publication of news or comments/information on public officials conducting investigations should not have a tendency to help the commission of offences or to impede the prevention or detection of offences or prosecution of the guilty. The investigative agency is also under a corresponding obligation not to leak out or disclose such information or indulge in misinformation.
- iv) The Official Secrets Act, 1923 or any other similar enactment or provision having the force of law equally bind the press or media though there is no law empowering the state or its officials to prohibit, or to impose a prior restraint upon the Press/Media.
- v) Those who hold public office and by their own conduct give scope for criticising them, cannot be heard to complain against such criticism.
- vi) Satirical comments, ridiculing and denigrating the first citizen of the country are uncalled for and beyond the call of fair journalistic comment.
- vii) While every journalist has a duty and freedom of critical evaluation of the functioning of public department/personnel, such evaluation has to be based on proper documents and verification.
- viii) It is obligatory on the part of an institution rendering public service to be open to bonafide critical examination of its functioning.

32. Paramount National Interest

- i) Newspapers shall, as a matter of self-regulation, exercise due restraint and caution in presenting any news, comment or information which is likely to jeopardise, endanger or harm the paramount interests of the State and society, or the rights of individuals with respect to which reasonable restrictions may be imposed by law on the right to freedom of speech and expression under clause (2) of Article 19 of the Constitution of India.
- ii) Publication of wrong/incorrect map is a very serious offence. It adversely affects the territorial integrity of the country and warrants prompt and prominent retraction with regrets.
- iii) Though the sources normally used are not to be disclosed, however, in case of serious allegations where matter is related to national interest and security it is incumbent/imperative/mandatory on part of the press to establish the authenticity of information given by the source.
- iv) An article concerning a sensitive issue which can defame a nation cannot be published without thorough verification. Newspaper as well as News Agency should verify the authenticity of the article before its publication.

33. Plagiarism

- i) Using or passing off the writings or ideas of another as one's own, without crediting the source, is an offence against ethics of journalism.

- ii) Violation of copyright also constitutes violation of journalistic norms.
- iii) Printing a reworded article of a writer by the paper without acknowledging his work is unethical.

34. Pre-Publication Verification

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

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

35. Privacy of Public Figures

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

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

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

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

36. Professional Misconduct

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

37. Professional Rivalry

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

38. Recording Interviews and Phone Conversation

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

39. Reporting on Natural Calamities

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

minimized by preventive action taken by all the stakeholders including the media.

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

40. Reporting Proceedings of Legislature

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

41. Right of Reply

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

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

42. Right to Privacy

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

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

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

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

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

are *prima-facie* in a violation of Suppression of the Immoral Traffic (Prevention) Act, 1956.

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

43. a) Trial By Media

Introduction

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

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

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

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

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

(b) Guidelines on Sting Operations

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

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

44. Unauthorised Lifting of News

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

45. Violence not to be Glorified

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

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

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

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Part B : Guidelines on Specific Issues

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

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

1. Distortion or exaggeration of facts or incidents in relation to communal matters or giving currency to unverified rumours, suspicions or inferences as if they were facts and base their comments on them.
2. Employment of intemperate or unrestrained language in the presentation of news or views, even as a piece of literary flourish or for the purpose of rhetoric or emphasis.
3. Encouraging or condoning violence even in the face of provocation as a means of obtaining redress of grievances whether the same be genuine or not.

4. While it is the legitimate function of the Press to draw attention to the genuine and legitimate grievances of any community with a view to having the same redressed by all peaceful, legal and legitimate means, it is improper and a breach of journalistic ethics to invent grievances, or to exaggerate real grievances, as these tend to promote communal ill-feeling and accentuate discord.
5. Scurrilous and untrue attacks on communities, or individuals, particularly when this is accompanied by charges attributing misconduct to them as due to their being members of a particular community or caste.
6. Falsely giving a communal colour to incidents which might occur in which members of different communities happen to be involved.
7. Emphasising matters that are not to produce communal hatred or ill-will, or fostering feelings of distrust between communities.
8. Publishing alarming news which are in substance untrue or make provocative comments on such news or even otherwise calculated to embitter relations between different communities or regional or linguistic groups.
9. Exaggerating actual happenings to achieve sensationalism and publication of news which adversely affect communal harmony with banner headlines or in distinctive types.
10. Making disrespectful, derogatory or insulting remarks on or reference to the different religions or faiths of their founders.

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

- i. The State Government should take upon themselves the responsibility of keeping a close watch on the communal writings that might spark off tension, destruction and death, and bring them to the notice of the Council;
- ii. The Government may have occasion to take action against erring papers or editors. But it must do so within the bounds of law. If newsmen are arrested, or search and seizure operations become necessary, it would be healthy convention if such developments could be reported to the Press Council within 24 to 48 hours followed by a detailed note within a week;
- iii. Under no circumstances must the authorities resort to vindictive measures like cut in advertisements, cancellation of accreditation, cut in newsprint quota and other facilities;
- iv. Provocative and sensational headlines should be avoided by the Press;
- v. Headings must reflect and justify the matter primed under them;
- vi. Figures of casualties given in headlines should preferably be on the lower side in case of doubt about their exactness and where the numbers reported by various sources differ widely;
- vii. Headings containing allegations made in statements should either identify the person/body making the allegation or, at least, should carry quotation marks;
- viii. News reports should be devoid of comments and value judgement;

- ix. Presentation of news should not be motivated or guided by partisan feelings, nor should it appear to be so;
- x. Language employed in writing the news should be temperate and such as may foster feelings of amity among communities and groups;
- xi. Corrections should be promptly published with due prominence and regrets expressed in serious cases; and
- xii. It will help a great deal if in-service training is given to journalists for inculcation of all these principles.

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

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

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

redressed by all peaceful, legal and legitimate means, it is improper and a breach of journalistic ethics to invent grievances, or to exaggerate real grievances, as these tend to promote communal ill-feeling and accentuate discord.

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

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

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

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

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

This is not to say that if there is anything newsworthy in a "Press Note" emanating from any source, it should be blacked-out altogether, because 'self-censorship' may be "no less dangerous for being insidious". The essential point is that editors must exercise due caution and circumspection in considering the dissemination of such Press Notes. If the whole of the Note is not pernicious, then it may be edited, its objectionable portions removed and language toned down so that whatever is true, newsworthy gets disseminated in a

balanced manner. However, where the "news" and the objectionable portions are inextricably mixed up, violating the entire warp and woof of the "Press Note", it will be prudent to withhold its publication altogether.

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

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

There is however a danger of a wilful administration using this process to muzzle the press and misuse its authority under the law to define "objectionable material" on its own terms. Strict procedures must therefore be laid down. Orders passed under any legislation in this regard from time to time in relation to publication of allegedly "objectionable matter" should be subjected to some kind of appellate review so as to curb any propensity to arbitrary action. The principal legislation and rules made thereunder should also be periodically reviewed in the light of changing circumstances. These safeguards should be built into all such press legislation.

c) HIV/AIDS and the Media

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

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

Be Objective, Factual and Sensitive

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

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

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

Accuracy is critical since important personal and policy decisions may be influenced by media reports. In the context of HIV and AIDS, this means that journalists need to be very careful about the scientific and medical details as well as statistics. With the combination of drugs and treatment regimens available known as antiretroviral therapy (ART), people infected with HIV can live for many years before showing any signs of illness. ART is a combination of drugs that reduces the amount of HIV in the body (viral load) by interfering with its replication. ART does not completely destroy the virus or cure the disease. With reduced virus in the body, the immune system can become stronger and fight infection more effectively, resulting in decreased morbidity for the patient. ART has been shown to benefit both adults and children living with HIV and AIDS.

Reporting on HIV and AIDS is complex and sorting through the epidemiological data can be challenging. Whether using data to support a story or reporting on the data itself, the specific data chosen and how they are used, will play a large role in determining what kind of story is told. In addition,

the data is often so complex that there is a risk of misinterpretation. For example, some reporters may use 'incidence' and 'prevalence' interchangeably even though they represent two different ways of measuring the epidemic. Experts/epidemiologists should be consulted.

Ensure Accurate Language and Terminology

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

With effective treatments now available, HIV infection does not necessarily lead to AIDS. It is important to reflect this in reportage. Since HIV is not synonymous with AIDS, 'HIV/AIDS' as a term is no longer considered accurate.

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

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

Debunk Myths Related to Prevention of HIV and Miracle Cures

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

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

Make Photographs, Illustrations and Cartoons Positive

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

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

Illustrations and cartoons also should avoid any negative implications.

For Visual Media

The visual media must deal sensitively and ethically with the identities of those who have HIV and AIDS as well

as their families and associates. Care must be taken during interviews, off-the-record conversations, while taking photographs and recording their stories so that identity is kept confidential.

Some Pointers:

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

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

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

For news Desk including Sub-editors and Newsroom Staff

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

Uphold Confidentiality and Obtain Informed Consent

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

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

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

Avoid Discrimination

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

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

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

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

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

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

Ensure Gender Sensitive Reporting

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

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

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

Ensure Sensitivity on Child-Related Stories

The identity of children infected and affected by HIV should not be revealed. Nor should their photographs be shown. This includes orphans and children living in orphanages, juvenile homes etc.

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

In India, the Juvenile Justice (Care and Protection of Children) Act, 2000 lays down that no report in any newspaper, magazine or visual media regarding a juvenile in need of care

and protection shall disclose the name, address, school or any other particulars that lead to their identification. It also prohibits the publication of any photograph related to the child.

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

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

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

Ensure Balanced and Responsible Coverage

News organisations should take the initiative to lessen the impact of a 'negative' story such as suicide due to HIV-related illness by carrying statements from positive people who have faced the challenge successfully or by giving helpline numbers.

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

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

Ensure Regular Training on HIV and AIDS for Media

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

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

Adopt Existing Stylebook or Guidelines on HIV and AIDS Reportage

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

APPENDIX 1

UNAIDS TERMINOLOGY GUIDELINES

www.unaids.org

APPENDIX 2

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

www.asci.co.in

APPENDIX 3

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

www.hrln.org

CONSENT FORM

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

Aged _____ years, agree that you _____

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

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

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

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

ADDRESS: _____

Phone: _____

DATE: _____

SIGNATURE: _____

d) Financial Journalism – 1996

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

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

recommended the guidelines enumerated below for observance by the financial journalists.

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

- 10) No newspaper owner, editor or anybody connected with a newspaper should use his relations with the newspaper to promote his other business interests.
- 11) Whenever there is an indictment of a particular advertising agency or advertiser by the Advertising Council of India, the newspaper in which the advertisement was published must publish the news of indictment prominently.

e) Election Reporting-1996

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

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

1. It will be the duty of the Press to give objective reports about elections and the candidates. The newspapers are not expected to indulge in unhealthy election campaigns, exaggerated reports about any candidate/party or incident during the elections. In practice, two or three closely contesting candidates attract all the media attention. While reporting on the actual campaign, a newspaper may not leave out any

important point raised by a candidate and make an attack on his or her opponent.

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

Returning Officers or Chief Electoral Officer issued from time to time.

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

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

The Press Council, therefore, advises that in view of the crucial position occupied by the electoral process in a representative democracy like ours, the newspapers should be on guard against their precious forum being used for distortions and manipulations of the elections. This has become necessary to emphasize today since the print media is sought to be increasingly exploited by the interested individuals and groups to misguide and mislead the unwary voters by subtle and not so subtle propaganda on casteist, religious and ethnic basis as well as by the use of sophisticated means like the alleged pre-poll surveys. While the communal and seditious propaganda is not difficult to detect in many cases, the interested use of the pre-poll survey, sometimes deliberately planted, is not so easy to uncover. The Press Council, therefore, suggests that whenever the newspapers publish pre-poll surveys, they should take care to preface them conspicuously by indicating the institutions which have carried such surveys, the individuals and organisations which have commissioned the surveys, the size and nature of sample selected, the method of selection of the sample for the findings and the possible margin of error in the findings.

1. Further in the event of staggered poll dates, the media is seen to carry exit-poll surveys of the polls already

held. This is likely to influence the voters where the polling is yet to commence. With a view to ensure that the electoral process is kept pure and the voters' minds are not influenced by any external factors, it is necessary that the media does not publish the exit-poll surveys till the last poll is held.

2. The Press Council, therefore, requests the Press to abide by the following guideline in respect of the exit polls:

Guideline:

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

f) Allotment of Houses to Journalists-1996

Pursuant to the request made to the Press Council of India by the Hon'ble Supreme Court of India *vide* its order dated 19/7/96, the office of the Press Council convened separate meetings on various days with the officials of the Ministry of Urban Affairs and Employment (MUAЕ) and the Press Information Bureau (PIB) in the Ministry of Information; (i) the representative of the Joint Action Group of Journalists and News Cameramen which had agitated against the retention of the press pool accommodation by some of the present journalist-allottees; and (ii) the journalist occupants. The Council also received representations and suggestions from individual journalists, including journalist occupants. Some of the occupant and non-occupant journalists also met the Chairman of the Council individually and made representation on behalf of the journalists and gave suggestions.

It was noted that the accommodation was given to the journalists since 1957 according to certain guidelines. Those

guidelines were revised from time to time and the latest guidelines are of December 1991. The Council also had the benefit of the draft of a further revision of the guidelines suggested by the P.I.B. to the M.U.A.E.

It was noted that originally, the system of temporarily allotting a fixed number of apartments for journalists started when Shri Sardar Patel was the Minister of Information and Broadcasting. In those days, the income of Indian journalists was such that most of them could hardly afford to stay in New Delhi. While many of the new journalists have to pay for high rent private flats, there is a need for the older journalists to vacate these accommodations in favour of the younger ones with lesser income.

It was further noted that the whole object of giving temporary accommodation to the journalists was to accommodate for some time to those journalists who came from outside Delhi. With that purpose, the government accommodation was being made available to the journalists for a limited purpose of three years and during this period they were expected to find accommodation for themselves and to vacate the government accommodation. For this purpose again, they were during this period of occupation, charged a nominal rent as charged to government servants.

It was also noted that it was not the intention of the government to create any relationship whatsoever between itself and the occupant journalist. The accommodation was to be given as a facility by way of transit accommodation till the journalist found a suitable accommodation for himself/herself within this stipulated period.

This is also borne out by the fact that the Second Press Commission in Chapter V. para 22 of its Report, had

recommended that the "Press should be able to resist not only external pressure but also inducements which would undermine independence from within. Journalist should be on guard against temptation to enjoy favours, whether from government authorities, employers, advertisers or others. Further Chapter VIII, para 49, it recommended that "no further housing facility should be provided to the journalists and existing allotment of the government accommodation in the National Capital and the States should be charged for at non subsidised rates and phased out as the present occupants leave". The Action Taken Report of the Central Government on the Report of the Second Press Commission submitted to the Parliament record be provided to journalists and in respect of the existing allotments, the rent should be charged at non subsidised rates. This was nearly a decade ago. However, the allotment continued.

Taking into Consideration all the above Facts:

Considering the developments such as that many journalists have continued to occupy the accommodation as if it was given to them permanently since there was no clear stipulation with regard to the duration of occupation, in their allotment orders;

Considering the fact that at present there are only 120 units available for allotment to the journalists under the above facility and that there are a large number of needy journalists in the waiting list;

Considering the fact that the prices and rents of the premises are at present at a higher level;

Considering the present level of income of journalists;

And considering also the fact that there is no reason why the media establishments which are making profits should not provide housing facility for their journalists/news cameramen or pay sufficient house rent in lieu thereof;

The following guidelines for the allotment of accommodation to the accredited correspondents and news-cameramen are suggested:

Eligibility Criteria

1. The accommodation will be given by the government from the press pool only to the accredited journalists and news cameramen. Accredited journalists/news cameramen will mean journalists/news cameramen accredited by the Central Press Accreditation Committee. They will not include: (I) those accredited journalists/news cameramen whose total emoluments exclusive of the conveyance allowance exceed Rs. 15000/-p.m.(II) accredited editors or editor-cum-correspondents: (III) Freelance journalists: (IV) Journalists engaged on contract basis : and (V) accredited correspondents who are not Indian National and /or who do not represent the Indian Media.
2. He/She does not own a house or flat, either as an owner or as a holder of power of attorney, in his/her own name or in the name of the family member or dependent in the National Capital Territory of Delhi, at the time of the allotment of accommodation from the pool.

Notes:

- i) The term 'family' in this context shall have the same meaning as defined in Government of India Supplementary Rule 2.

- ii) The National Capital Territory of Delhi in this context shall besides Delhi, include municipal limits of Ghaziabad, Gurgaon, Noida, Greater Noida, Faridabad, Bahadurgarh and Sahibabad.
 - iii) The transfer of ownership of spouse/sons/daughter and/or its sale to third party within a period of five years prior to the date of application/allotment shall render the applicant ineligible for pool accommodation.
1. The accommodation will be allotted by a Screening Committee (Composition of which is given in para 17) according to seniority and pay limit as mentioned below:

The accredited journalists will be divided in two categories namely: (i) those who are drawing income upto Rs. 7000/- p.m. and (ii) those drawing income between Rs. 7,001/- to Rs. 15,000/- p.m. **The above mentioned limit of emoluments would vary depending upon the recommendations of the Wage Boards of the pay-scale for the category 1A of the working journalists as defined in the Bachawat Award.**

The monthly income would mean emoluments excluding conveyance allowance.

Two separate lists namely, 'List I' and 'List II', of the above categories (i) and (ii) of the journalists respectively would be prepared on the basis of the aforesaid income criteria and according to the seniority on the basis of the date of application for the accommodation.

2. Depending upon the availability, the accommodation will first be given to those in List I according to the seniority. If after satisfying the needs of all the journalists in List I, more units of accommodation are available, they would be given according to seniority to the journalists in List II.

3. The journalists in List I may occupy the accommodation so given for a maximum period of five years but no longer.

Those in List II may occupy the accommodation so given for a maximum period of three years but no longer.

The allottee shall not be eligible for allotment of accommodation from the pool more than once.

4. The allottee shall pay the Government every month the amount of HRA that the allottee receives from his/her employer in addition to the license fee fixed under the Government of India. Director of Estates, New Delhi, Office Memorandum No. 18011/3/95-Pol-III dated 2.7.96. It shall be his/her responsibility to pay all sums due as aforesaid to the government by the 10th of every month. Failure to pay the dues as aforesaid shall make him/her liable to be evicted forthwith.

5. Every allottee shall, on 31st March every year, intimate to the Directorate of Estate, Ministry of U.A. & E the details of his emoluments including basic pay, all allowances, including the HRA and particulars of his/her family member/dependent or self having acquired as a holder of power of attorney or otherwise, any

accommodation in the National Capital Territory as defined above.

6. The allottee shall vacate the accommodation within 30 days of the expiry of the period of allotment.

Disqualifications to Remain in Occupation

7. The allotted who acquires accommodation whether as a holder of power of attorney or otherwise in his/her own name or in the name of his/her spouse/family members/dependants, shall immediately but not later than 30 days inform the Directorate of Estate about such acquisition and shall also vacate the government accommodation within a period of two months of the acquisition of the accommodation.
8. The allottee, who voluntarily changes or voluntarily or compulsorily ceased to be in the employment of a media organisation for whatever reason and whose accreditation has not been changed to the new media unit, shall no longer be entitled to retain the government and shall vacate the same within a period of six months from the date of change of the employment.
9. The allottee who has, for any other reasons, will become ineligible for pool accommodation as per these guidelines, shall become liable to be evicted under the Public Premises Act after the expiry of the stipulated grace period laid down herein.
10. If the allottee fails to vacate the Government accommodation allotted to him/her as mentioned in clause 8-11 above, he/she shall be liable to be evicted from the same under the Public Premises Act and shall

also be liable to pay damages as prescribed in the Government of India, Directorate of Estate, New Delhi Office Memorandum No. 18011/3/92-Pol. III dated 30.5.1995 for the period of unauthorised occupation of the premises.

Procedure for Allotment of Accommodation

11. The government shall create a pool for media for the Delhi based accredited correspondents and news cameramen, out of the Central pool of residential accommodation in Delhi. The number of units to be allotted shall be such as may be fixed by the Government in the Ministry of Urban Affairs & Employment from time to time. At present there are 120 units in the media pool.
12. The number of units under the media pool shall remain earmarked for the representatives of the media.
13. The accommodation in the media pool would be of the types IV Special at the maximum.
14. Such Delhi-based accredited journalists/news cameramen, as are desirous of government accommodation from the media pool, shall make an application for the same to the Principal Information Officer or the Press Information Bureau in the Ministry of Information and Broadcasting. The application shall be accompanied by an affidavit stating the following particulars:
 - (a) His/her monthly income as defined in Clause 3 above;
 - (b) The amount of HRA received by him/her from his/her employer;

- (c) Whether he/she has accommodation either as a holder of Power of Attorney of otherwise in his/her own name or in the name of his/her spouse/family members/dependants within the National Capital Territory (NCT) as defined in Note (ii) to clause 2 and;
 - d) Whether he/she has transferred any such residential accommodation whether on Power of Attorney or otherwise to his/her spouse or family member or dependent or to any third party within the National Capital Territory of Delhi, and if so, when.
15. The application for allotment of accommodation out of the media pool shall be processed by a Screening Committee headed by the Secretary to the Government of India, Ministry of Information and Broadcasting and shall consist of the Principal Information Officer of the Press Information Bureau and the Joint Secretary/Additional Secretary (Estate) and Director of Estate, Ministry of Urban Affairs and Employment as its ex-officio members and six accredited journalists to be nominated by the Ministry of Information and Broadcasting.
16. The Screening Committee shall meet at least twice a year. The applications for allotment of accommodation shall be disposed of by the Committee within a period of not more than two months from their receipt.
17. There shall be no discretionary quota for allotment out of the media pool.

Saving Provision:

18. Such allottees as are present in occupation of houses for a period of more than three/five years, as the case may be, and/or have become ineligible on account of any other reason(s) as per these guidelines, shall become liable to vacate the accommodation as follows:

- i) Those who are in regular employment or those who are freelance journalists and not employed on contract-basis and have become ineligible only on account of the expiry of the stipulated period of occupation on the date of coming into operation of these guidelinesshall become liable to be evicted within a period of three years from the date of coming into operation of these guidelines.
- ii) Those employed on contract basis and who become ineligible to occupy government accommodation by virtue of these guidelines shall become liable to be evicted within a period of two years from the date of coming into these guidelines.
- iii) All others who become ineligible to occupy government accommodation on account of any other reason(s) whether in addition to the expiry of the stipulated period of occupation or otherwise, as per these guidelines, shall become liable to be evicted within a period of one year from the date of coming into operation of these guidelines.

During the period of occupation of Government accommodation as in sub-clause (i) to (iii) above, the occupants other than freelance journalists, shall pay license fee plus HRA as per clause (6) **or the damages as per clause (12) above**. The freelance journalist shall pay only license fee for the period of occupation of the accommodation in terms of Government of India, Directorate of Estate, New Delhi; Office Memorandum No. 18011/3/95-Pol III dated 2.7.1996.

After the discussions in the Council meeting held on 25.9.96, the Chairman, Press Council of India suggested the following modification in the guidelines:

- The maximum total emoluments for entitlement of government accommodation is prescribed at present as Rs. 15,000/- per annum in para 3 of the 'Eligibility Criteria'. It may be added there that the above mentioned limit of emoluments would vary depending upon the recommendations of the Wage Boards of the pay-scale for category 1A of the Wage Boards of the pay-scale for category 1A of the working journalists as defined in the Bachawat Award.

Some members of the Council suggested the following modifications:

1. A uniform period of five years may be given for vacating the government premises to all journalists whether they are in regular employment contract employment or whether they are freelance journalists and to that extent clauses (i) and (ii) of para 20 of the guidelines may stand modified. However, the period for vacating the government accommodation by those who have other accommodation in Delhi will remain unchanged.

2. A uniform tenure of five years for occupation of government accommodation once it is allotted, may be given to all the allottees whether the employees fall in list I or list II as mentioned in para 3 under the 'Eligibility Criteria'.

These were forwarded to the Hon'ble Supreme Court of India on 10.7.1996 and were incorporated in the Order of the Hon'ble Supreme Court dated 19.7.1996.

g) Guidelines on Undue Favours to Journalists-1988

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

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

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

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

1. Accommodation-houses/flats/land:

The Government is not obliged to provide accommodation to the journalists as it is the responsibility of the newspaper establishment to provide accommodation to their employees. Whenever such a facility is provided to the journalists by the authorities it should be gradually phased out.

Land allotments at concessional rates to the newspaper establishment /individuals for the purpose of installing printing presses should not be a source of undue/illegal enrichment of the allottees.

Therefore, the proposal of allotment of land to newspaper establishment/individuals should be scrutinized by the authorities very carefully. No land should be allotted to newspaper establishments/individuals at concessional rates

if the land is proposed to be put to commercial use as well along with its use for press purpose by the allottees.

2. Allotment of Shares in Companies:

The shares allotted at a special price or given under any quota is a favour.

3. Bus Travel/Rail Travel/Transport:

This is a favour so far as big and medium newspapers are concerned. Further the journalists attached to the newspapers which are in profit have no justification for availing free bus/rail/transport facility. Such costs must be borne by the concerned newspaper. However, in the case of small newspaper this may constitute a facility.

4. Foreign Travel:

Extending the facility of air travel by companies, corporations and airlines is an inducement to write favourably about their products and services. As regards official foreign tours undertaken by the President, the Vice President, the Prime Minister and the External Affairs Minister or any other Minister, only eligible journalist should be nominated for coverage once the newspaper has been selected on the basis of the criteria laid down. The management personnel of the newspapers should not be selected/ nominated for coverage of such tours.

5. Free Air Tickets by Domestic Travel Airlines and Others:

It induces journalists to write favourable reports to commercially promote the airlines and the commercial

enterprise offering such tickets and should not be accepted by the journalists.

6. Cash Disbursement from Chief Minister's Discretionary Fund:

Disbursement of money from the Discretionary Fund of the Chief Minister other than by way of relief to the indignant and helpless journalists encourages unfaithfulness to the mission of journalism and promotes corrupt practices. This could be discouraged by the Chief Ministers.

7. Cash Disbursement Financial Assistance:

The financial assistance, even if given for medical treatment, constitute a favour, unless, medical aid is given under a clear cut policy uniformly applicable to the destitutes or sick persons who cannot afford the medical treatment, and the journalists happens to be one of such beneficiaries. Extending CGIIS facility to journalists is illogical since this facility to its employeess is the responsibility of the newspaper establishments and should be provided by the authorities.

8-9. Funds for media centres and grants to journalists associations is favour and should be discontinued, unless it is given for promoting the journalistic skills.

10. Gift cheques including those given by the advertisement agencies for publication of material relating to their clients or otherwise is a favour and deserve outright condemnation. The journalists should not accept them.

11. Gifts in any form, irrespective of their value, are to be condemned.

12. Free parking is a favour, if journalist uses this facility for the purpose other than his professional work.

13. Guest Hospitality:

The working journalists, as a rule should not be treated as State Guests. However, when Press teams are invited to a place to discharge their professional duties, making due arrangements for them would be an exception. The stay in government guest houses by accredited journalists, is permissible if it is for discharging professional duties.

14. Import of duty free cameras and computers:

It is the duty of the newspaper establishment to provide cameras/computers to its personnel. Allowing duty free cameras and computers to a particular class of persons by the Government is a favour. However, this facility may be extended to the accredited freelance journalists, small newspapers, provided it is not misused.

15. Insurance Premium:

It is not for the government to pay premium of the insurance of the journalists. The newspaper establishments or the individual concerned should make the payment of the same.

16. Giving jobs to journalist's relatives, for considerations, and other than on merits is an outright attempt to induce and should be curbed.

17. The grant of loans within the ambit of a policy already laid down for all citizens is permissible. But when

the loan is given only to journalists or at reduced rates of interests or when the interest due or the principal amount is waived/written off/condoned, such a practice amounts to undue favour and should be stopped.

18. Nomination on Committees:

In some states the journalists are nominated on some organisations and institutions like Public Service Commission and are also given the status of State Minister or Cabinet Minister, which is a wrong practice. Except for nomination by professional organisations on Committees, which have a quota to represent the various professions, this practice constitutes a favour and should be stopped.

19. Allotting PCO/Fax/Phone booth or centre to a journalist is a favour. This practice should be stopped.

20. Pensionary Benefits:

Since the media is not part of the government, the benefit given only to media persons constitutes a favour when extended by the government.

21. Press Clubs-Donation of Funds:

This practice is prevalent all over the country and funds are being donated lavishly by Chief Ministers/Ministers, political leaders, companies and corporations not only to genuine Press Clubs but also to the Press Clubs of dubious nature. In the latter case it constitutes an attempt to induce the journalists to give favourable reports about the donors. This should be stopped.

22. Prizes:

The practice of giving spurious awards has to be curbed. There are instances of sale of awards and prizes by the racketeers making money out of it. Not only the racketeers but the awardees often contribute towards the value of the prize.

23. Allotment of shops to persons for reasons of their position as journalist is a clear cut favour and should be stopped forthwith.

24. The grant of Accreditation Cards, Government and Public Authority Advertisements according to rules, facility during election meeting, expenses for journalistic conventions, seminars, etc. providing press rooms, inviting press parties, giving publication material, providing for training of journalists do not constitute favours. They are essential facilities offered to journalists for the discharge of their professional duties.

h) Right to Privacy - Public Figures and the Press -1998

The issue has been under heated debate at both national and international level. It appears certain that right to privacy cannot be absolute, yet the media itself has to show self-restraint, and respect the privacy of the public figures. Where there is clash between the public person's privacy and public's right to know about his personal conduct, activities, habits and traits of character, impinging upon or having a bearing on public interest, the former must yield to the latter.

It will, however, be necessary to bear that what is of 'interest to the public' is not synonymous with 'public interest' and that must be the ultimate test that the journalists must themselves apply in the circumstances of each individual case.

Drawing out of the above, the Council draws up the following guidelines:

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

The above broad guidelines emulated in true spirit are certain to strike a balance between the right of the press to have access to information and the public persons' right to privacy.

i) Model Guidelines for Publishing Overseas Advertisements in Accordance with Emigration Act 1983

The Information and Broadcasting Ministry requested the Council to issue guideline for the publishers in wake of advertisements of overseas jobs being published in various newspapers in contravention of Emigration Act, 1983. The Council in consultation with the Protector General of Emigration adopted the following model guidelines:

1. As per the provisions of Section 16 of the Emigration Act, 1983, no employer can recruit any citizen of India for employment in any country or place outside India except (a) through a recruiting agent competent under the Act to make such recruitment, or (b) in accordance with a valid permit issued in this behalf.
2. Section 10 of the Emigration Act, 1983, provides that no recruiting agent shall commence or carry on the business of recruitment of Indian citizens for overseas employment except under and in accordance with the certificate issued by the registering authority, i.e., Protector General of Emigrants in the Ministry of Overseas Indian Affairs.
3. Similarly, a foreign employer or a project exporter can recruit Indian citizens for employment abroad only after obtaining permit from the Indian Mission in the country of employment or the Ministry of Overseas Indian Affairs, New Delhi.

4. It is mandatory for the Registered Recruiting Agents to display their registration certificate number while inserting advertisement for recruitment. Similarly, Foreign Employers and Project Exporters will also have to indicate permit number while inserting advertisements.
5. A copy of the registration certificate in case of recruiting agents and permit letter in case of foreign employers and project exporters may be asked to be attached with the advertisement form as proof of their being genuine persons.
6. All advertisers may be asked to mention the following in their advertisement:
 - a. Registration Certificate Number/Permit Number;
 - b. Full address with Telephone Number, Post Box Number, e-mail address (These could be given in addition to the full address but not as the mode of communication);
 - c. No fee towards processing application or for any other purpose shall be charged from the applicant;
 - d. Name of the Posts/Jobs;
 - e. Number of Position/vacancies in each category; and
 - f. The salary offered to each category of job.

7. In case of any doubt, the publisher may also ask for Copies of Demand Letter and Power of Attorney supposed to have been given by the foreign employer or sponsor to an agent, on the basis of which the said advertisement is being released.
8. Also clarifications may be sought from the Protector General of Emigrants, Ministry of Overseas Indian Affairs, New Delhi or from the eight Offices of the Protector of Emigrants located at Delhi, Mumbai, Chennai, Kolkata, Thiruvananthapuram, Cochin, Chandigarh and Hyderabad.
9. Further, the list of registered recruiting agents can also be seen in the website of the Ministry of Overseas Indian affairs, i.e. <https://moia.gov.in>.

(j) Study Report - Working Journalists Act vis-à-vis Appointment of Journalists on Contract July 27, 2007

The Press Council of India having considered the matter of appointment of journalists on contract basis in newspapers establishment on the basis of the report of its Sub-Committee unanimously opines that “All the employees of a newspapers establishment covered within the definition of Working Journalists Act, should be given the protection of the provision of the Act”.

A Sub-Committee to study the Working Journalist Act 1955 *vis-à-vis* appointment of journalists on contract was set

up by the Press Council of India in its meeting held on 9.2.06 at Pune. The Sub-Committee called for views and comments from the notified associations. Out of 15 notices sent, only two i.e. Indian Journalist Union and Indian Newspaper Society responded and some responses were received from Press Councils and similar bodies outside India though most of the bodies informed that they deal only with specific complaints against published material.

At nearly half a dozen meetings held by the Sub-Committee in Delhi, the overwhelming view emerged that contractual employment should be covered under the Working Journalist Act and the terms of appointment should not be disadvantageous to the journalists *vis-à-vis* the minimum wages prescribed in the Act. The Sub-Committee was also of the view that the Working Journalist Act should be implemented in letter and spirit.

The Sub-Committee had the benefit of discussing in a free and frank manner the view expressed by the members and scrutinizing them in detail from a variety of perspectives be it that of newspaper editors/owner or of journalists. The Sub-Committee was unanimous in its opinion that broadly half a dozen suggestions can be made:

1. A reference be inserted in the terms of reference of Wage Board constituted recently for the Working Journalists.
2. Security of tenure of journalists appointed under contract to be ensured under the Working Journalist

and Other Newspaper Employees (Conditions of Service) & Misc. Provisions Act, 1955.

3. Contract employment should not be an “attraction or allurements”.
4. Tendency of “hire and fire” as also change of employment in quick succession should be discouraged and the contract employment should not remain at the whims and fancies of either party.
5. The wages being offered on contract should not be less than the gross wages under the Working Journalist Act.

In its discussions also, the Sub-Committee dwelt at length on fast changing scene in the media world where contractual employment was replacing regular appointment of journalists under the Working Journalist Act. The harsh reality remains that there is absolutely no protection available to those journalists under the Act who have been appointed under the contractual system, a concern voiced time and again by several quarters.

The contractual employment was gradually creating a separate category of journalists, a category which did not enjoy benefits under the Act. Though the journalist under contractual employment often accept hefty pay packets and also get substantial wage increases, their freedom increasingly comes under a cloud of uncertainty as soon as the date for the contract renewal approaches. It is often seen that no sooner than the contractual term nears completion the journalist

comes under pressure to show “results” and the remaining period till the renewal of contract is often laced with uncertainty and fear of an “abrupt transfer” without giving any option or choice of freedom. Several instances were cited before the Sub-Committee which portrayed exploitation of journalists under the contractual system of employment as they were either given a paltry sum every month or shunted out or transferred without citing any reasons of exigencies of the organization.

Though the terms of contract essentially remain an agreement between the employer and the journalist, it is often observed that there is hardly any option or freedom of choice available to those engaged in the profession of gathering, reporting, disseminating or analyzing news. Such a scenario has also raised crucial question relating to the freedom of press and working conditions of journalists. Are journalists to be treated as any other employee in any segment of the industry? Is newspaper publishing a business like any other business or industry?

The Sub-Committee recalled the September 22, 2003 meeting of the Press Council of India at Pune which was chaired by Mr. Justice K. Jayachandra Reddy and had considered the matter of contractual system of appointment of journalists by some newspapers in the country.

At that meeting too, the Council had felt that even though the changing media scene needs to be accepted as a harsh reality, the appointment of journalists on contract basis in place of regular appointment under the Working Journalist

Act could affect their right to express themselves freely without paying heed to the pressures that could be forthcoming from various quarters. Hence, it was necessary that covert as well as overt threats to the freedom of the press be constantly kept in sight. The Council was of unanimous view that while as far as the law existed, the manner of employment was a matter of agreement between the employer and the employee, there was no doubt that the freedom of the press could be in jeopardy in contract system where continuance of service would be at whims of the employer.

It quoted External Affairs Minister, Mr. Pranab Mukherjee's observations at the recently held SAARC Editors Conference in Delhi viz., "In many ways, the media is the torch-bearer of better people-to-people contacts. One sentence from any of you has the potential to reach millions. It can correct a wrong 'it can create an image' it can plant a seed of understanding". Mr. Mukherjee told the conference "if the written word's power has been acknowledged time and again by one and all, is it not in the fitness of things that the hands which wield the pen should do so with freedom, responsibility and without any fear. Such working conditions in the media can only forge a better and healthy relationship between the employer and employee".

The Sub-Committee left it to the collective wisdom of the full Press Council to assess if the situation is any different at present or how it has evolved over the past three or four years.

Its final recommendation supplementing the report read “All the employees of a newspaper establishment covered within the definition of Working Journalists Act, should be given the protection of the provision of the Act”.

Debating over the issue at length in the meeting held on 27.7.07, the Council adopted the final recommendation as its own.

k) Guidelines for Protection of Child Rights

Guidelines Drawn up for Reporting on Children:

- Do not further stigmatize any child; avoid categorisations or descriptions that expose a child to negative reprisals including additional physical or psychological harm, or to lifelong abuse, discrimination or rejection by their local communities.
- Always provide an accurate context for the child’s story or image.
- Always change the name and obscure the visual identity of any child who is identified as:
 - i. A victim of sexual abuse or exploitation,
 - ii. A perpetrator of physical or sexual abuse,
 - iii. HIV positive, or living with AIDS, unless the child, a parent or a guardian gives fully informed consent,

iv. Charged or convicted of a crime.

In certain circumstances of risk or potential risk of harm or retribution, change the name and obscure the visual identity of any child who is identified as:

- i. A current or former child combatant,
 - ii. An asylum seeker, a refugee or an internal displaced person,
- In certain cases, using a child's identity - their name and/or recognizable image - is in the child's best interests. However, when the child's identity is used, they must still be protected against harm and supported through any stigmatization or reprisals. Some examples of these special cases are:
 - i. When a child initiates contact with the reporter wanting to exercise their right to freedom of expression and their right to have their opinion heard.
 - ii. When a child is part of a sustained programme of activism or social mobilization and wants to be so identified.
 - iii. When a child is engaged in a psychosocial programme and claiming their name and identity is part of their healthy development.
 - Confirm the accuracy of what the child has to say, either with other children or an adult, preferably, with both.

- When in doubt about whether a child is at risk, report on the general situation for children rather than on an individual child, no matter how newsworthy the story.

D) Model Accreditation/Advertisements Rules-2014

1. These Rules formulated by the Press Council of India will serve as the guideline for framing and implementing the Rules of Accreditation of the Central and State Governments. These Model Rules have been framed to ensure accreditation-to cover the news relating to the Central/State Government– is granted and renewed with fairness, transparency, with commitment to freedom of press, and in public interest.

2. Definitions:

- i) **Accreditation:** Recognition granted to Correspondents/Editors of Media organisations (as defined in sub clause iv) to have access to news materials, written and pictorial; to offices and officers of the Government at the Headquarters and other centres for gathering news; access for laws, rules, notifications, press releases, background papers, etc. of the activities of the government; for invitations and admittance without any hindrance to functions, press conferences, statutory events and other activities of the government; facilities in terms of travel, research, documentation, etc. relating to newsgathering. The Accreditation should be

available throughout the country, state, city, district or tehsil, as decided by the Committee.

- ii) **Correspondent:** A working journalist employed by a newspaper, magazine, news agency, television channel, radio organization or news portal, to gather and file news items regularly for the newspaper, magazine, television channel, radio organisation or news portal, as defined in clause 2 (iv) of these rules. The definition of Working Journalist for print media, including newspapers, magazines and news agencies, shall be generally the same as the definition in the Working Journalist Act.
- iii) **Cameramen:** Still and Television cameramen employed by media organisations for taking picture or video-graph news events.
- iv) **Editor:** Editor of a newspaper, magazine, Television Channel, Radio organization, news portal, who is in-charge of news selection and editorial policy of the organization, including Chief Editor, Editor-in-Chief, Managing Editor, Executive Editor, Resident Editor, Content Head.
- v) **Media Organization:** Newspaper, magazine, Television Channels, Radio organization, news portal, recognised by Government of India/State government agencies under relevant laws and rules like PRB Act, Uplinking Guidelines for Television Channels and FM Stations, Prasar Bharti Act, etc.

- (a) **News Media** shall include newspapers, wire service and non wire service news agencies, news feature agencies, electronic media agencies, news portals containing news and comments on public news.
- (b) **Newspaper** shall have the same definition as given in the Press and Registration of Books Act, 1867. A Daily newspaper shall be published on not less than five days in a week; a weekly or Fortnightly newspaper shall have not less than 45 or 22 issues in a year respectively.
- (c) **News Agency** shall be wire and non wire organizations which supply news on a minute-to- minute or daily basis to a number of media organizations, both print and electronic.
- (d) **News Feature Agencies** shall be agencies which supply news and features based on current affairs to newspaper organizations on a weekly or fortnightly basis.
- (e) **Radio Organization** means any media organization which broadcast news bulletins and carries current affairs programmes, including All India Radio which operates under the Prasar Bharti Act.
- (f) **Television Channel** shall have the same meaning as News and Current Affairs Channels permitted under the Guidelines of

the Ministry of Information and Broadcasting. This includes the news channels of Doordarshan operating under the Prasar Bharti Act.

- (g) **Television and Radio news agency** shall be media organization which provides news clips and feeds to Television channels and radio stations.
- (h) **Foreign Newspapers and foreign news agencies** shall be media organisation which fulfil broadly the criteria laid out in clause 2 (b) and 2 (c) respectively.
- (i) **Foreign television channel** shall be media organisation which fulfils broadly the criteria laid out in the Guidelines for News and Current Affairs Channels of the Ministry of Information and Broadcasting.
- (j) **News Portals** are news and current websites which provide continuous news coverage and current affairs features.
- vi) **Accreditation Card:** The PIB or the State Information Department shall issue a photo identity card to all correspondents and editors to whom the accreditation is granted by the Committee, and wherever necessary, the card should have authorization to enter all premises of the Central and State Governments, without any requirement of obtaining visitor pass.

- vii) **Committee:** Committee formed by the Government for considering and sanctioning of Accreditation, and to recommend steps for facilities for news gathering by accredited correspondents and news organisations. State Governments shall form District or Tehsil (Mandal) level Accreditation Committees, subject to local requirements.
3. The Press Accreditation Committee shall be a permanent organisation, whose membership will change every two years. There shall be no discontinuity in the functioning of the Committee and it shall be the responsibility of the Government to ensure that the nomination of fresh members is gazetted before the term of the earlier team expires. In case the Government is unable to nominate the new members, the old Committee will continue until the new Committee is constituted.
4. a) The Press Accreditation Committee shall consist of not less than Nine members, representing various recognised mainstream media organisations at National/State level of Editors, Correspondents, Cameramen and Cartoonists. These organizations must have representative character and fair representation of membership of the category of journalists in the Centre or State.
- b) Every Accreditation Committee formed by the Central or State government shall have a representative of the Press Council of India,

preferably a member who lives in the particular State or the City as the case may be.

- c) No member may continue for more than two consecutive terms.
5. The Director General, Media & Communication shall be the Member-Secretary of the Central Press Accreditation Committee and the Director/Commissioner of Information of a State Government shall be the Member-Secretary of the State level Accreditation Committee. For a Committee at District or Mandal level, the District Information/Public Relations Officer shall be Member-Secretary. The Member-Secretary shall be responsible for convening the meetings of the Committee, scheduling the agenda and for implementing the decisions of the Committee.
6. The Chairman of the Committee shall be a senior journalist, who shall be nominated by the Central or State Government. The Chairman should have minimum 10 years experience as an accredited correspondent to the government concerned, and should be ineligible for a second continuous term.
7. The Committee shall meet once in a quarter or more frequently if considered necessary. The quorum shall be 50 percent of the total membership. A minimum of 15 days notice should be given for meetings, unless the Chairman is satisfied that a meeting should be called at short notice due to extraordinary circumstances. Even then the decisions of such an extra ordinary meeting will have temporary validity, until they are ratified by the Committee meeting called after 15 days notice.

8. The Committee shall admit newspapers, news agencies, magazines, TV channels, Radio organizations, news portals provided, they fulfill the basic criterion of providing contemporaneous news to their readers, subscribers, viewers, listeners as the case may be. They should carry at least 50 per cent its contents as news/comments of general public interest. The decision of the Committee on whether the applicants carry 50 percent of content as news is final. These organisations must be functioning as a news organisation for a period of at least six months before they are eligible for accreditation as an organisation. However, if a publication changes the periodicity of publication but continues to carry minimum 50 percent of contents as news/comments of general public interest, then its admission shall continue. All newspapers and magazines applying for recognition by the Committee shall furnish a No Due Certificate from the Press Council of India.
9. However, if the Committee is unanimously satisfied that a news organisation needs temporary accreditation from the day it starts the operations, then the Committee may grant a small number of accreditations to the applicant organisation, without creating any permanent claim. The admission granted to these organisations will be withdrawn if they cease to function or cease to disseminate contemporaneous news. It is the duty of the organisation to inform the Government if it is being closed down or changes to non-news content.
10. Based on the Circulation of newspapers and magazines, the number of subscribers and turnover of news agencies, the turnover of TV channels and

Radio organisations, the page hits and turnover of news portals, the Committee shall prescribe the number of Editors, Correspondents, Photographers, Cartoonists, Cartographers, TV Cameramen, Radio Executives, etc. who can be accredited to the Government. However if the organisation provides proof of increase/decrease of these criteria, the Committee would correspondingly alter the quota.

11. A minimum of five years experience in a news organisation, which is admitted by the Committee, is required to consider the application of an Editor/ Correspondent/ Cartoonist/ Cartographer or Photographer/ TV Cameraman/ Radio Executive for accreditation to the Government of India. For accreditation to the State Government at the State or District level, three years experience is minimum requirement.
12. For purpose of accreditation, Editors should be considered as being engaged in newsgathering and should be given accreditation. The Committee shall satisfy itself that the applicant is fully employed in the news organisation by asking for news clippings, video clips, radio clips, etc., apart from employment certificate, a certificate from the Editor that the applicant is engaged in news reporting. The Committee shall not give accreditation to advertising or sales person who put in a claim that they are also correspondents.
13. On its satisfaction that the applicant meets the criterion to be an accredited correspondent, the Committee shall permit grant of accreditation subject to the availability of the quota of the news organisation.

14. The Government will issue the accreditation card to the journalist within a fortnight of the date of approval by the Committee.
15. In case the Committee rejects the application of a media organisation, or a journalist on behalf of a media organisation for accreditation, then the applicant organisation/individual shall be informed the reasons for rejection in writing. The applicant organisation/individual can make amends or place other relevant facts before the Committee for reconsideration. However, the Committee's decision, after such reconsideration, shall be final.
16. The Committee can grant accreditation to senior journalists, who are freelancing, provided they have been accredited correspondents on behalf of news organisations for at least 15 years, provided they show evidence that their main avocation is of journalism and that they are earning their livelihood through journalism.
17. The Committee may grant special accreditation to journalists who have done Long and Distinguished Service as accredited correspondents, provided they are above 58 years of age; are accredited for a minimum period of 15 years; and are actively pursuing journalism at the time of recognition of their service.
18. The Accreditation card issued to Editors, Correspondents, Cartoonists, Cartographers, Photographers, TV Cameramen, Radio Executives, etc. shall be valid for a period of two years. Under the general directions of the Committee, the PIB or

the concerned State Government department shall renew the accreditation of all accredited journalists once in two years, ensuring that the accredited journalist is not deprived of the facility even for a single day.

19. In case a correspondent works for more than one organisation, and requests for additional accreditation, the Committee may decide to grant additional accreditation, after recording the reasons for granting additional accreditation.
20. All Government Ministries, Departments, undertakings and other wings shall provide access and information to accredited journalists, and they shall not discriminate amongst accredited journalists for dissemination of news.
21. The Committee shall withdraw the accreditation, provided:
 - i) The Editor informs the Committee that the journalists has been reassigned within the organisation.
 - ii) The Editor informs the Committee that the news organisation has closed down/or is no longer carrying 50 per cent content as news.
 - iii) The journalist is no longer an employee of the news organisation.
 - iv) If a journalist has been censured at least twice by the Press Council of India for professional misconduct.

- v) If the Committee were to come to the conclusion that the journalist has made gross misuse of the accreditation facility, then he shall be given an opportunity to answer the charges, and the Committee shall record its reasons for withdrawal of accreditation.

Proviso As journalists enjoy the protection of the Constitution, the Accreditation Committee shall ensure that the accreditation is not cancelled for any malafide or frivolous reason by the Central or State Government or any politician or official who have a grudge against journalists publishing news which may be unpalatable. No media organisation or journalist shall be deprived of accreditation merely on the ground that he had published what was claimed to be an official secret, or that he has published reports which are unfavourable to the Government or its Ministers or Officials.

22. Apart from considering applications for grant and withdrawal of accreditation by news organisations and journalists, the Committee shall discuss and recommend measures for providing additional facilities to news organisations and journalists to improve the quality of news dissemination.
23. Editors/journalists deputed by editors of newspapers, magazines, news agencies, television and radio organisation, news portals who are accredited by a State Accreditation Committee shall be considered

eligible for accreditation to the Government of India at its headquarters in New Delhi and offices in state capital/s, even though they may not be residing in the National Capital Region, with a view to ensure that the news relating to Government of India is disseminated in all regions and Editors/accredited journalists from all over India have access to Government of India's information and offices.

24. A journalist covering more than one state/cluster of States like North-East shall be eligible to have accreditation in all the states/cluster of State like North-East provided the Editor gives a certificate, justifying the needs for accreditation in more than one state.
25. The Government will put the Rules on the website of the concerned Ministry so that it is available for reference to the news organisations, journalists and the general public. The decisions of the Committee on admission of news organisations/journalists will be put on the notice board soon after the decisions are implemented.

m) Model Advertisement Policy Guide - 2014

Introduction:

Under the statute passed by the Parliament in 1978, the Press Council of India is enjoined upon to preserve the freedom of the Press and to maintain and improve the standards of newspapers and news agencies in India. This is further supported by clause (e) of section 13 (1) of the Press

Council Act, whereby the Council is required to “keep under review any development likely to restrict the supply and dissemination of news of public interest and importance”. There have been a number of occasions where the Press Council has been called upon to look into the complaints of improper or arbitrary denial of advertisements by various authorities, severely affecting the economic viability of newspapers, particularly of those in the smaller category.

In disposing of these complaints, the Council has often observed that governmental authorities should not single out a newspaper for discriminatory treatment in the matter of release of advertisements on account of its critical writings. Release of advertisements should be done not on an adhoc basis but on the basis of a notified policy formulated on some rationale criteria. Political consideration should not weigh in the issue. Distribution of advertisements should be equitable as far as possible but smaller newspapers which subsist on government advertisement revenue need special consideration of the governmental authorities. While advertisements cannot be claimed by newspapers as a matter of right, they are neither a grant to be released at the whim and discretion of the controlling authority.

Against this background, the Press Council of India has considered the question of formulating basic elements of what may be an advertisement policy for the Central and State Governments to adopt. These model guidelines propose broad principles of uniform applicability governing the release of advertisement by Central and State Government, Union Territory, Administration vis-a-vis their distribution, rate fixation and payment and canalisation.

Criteria:

- 1) Newspapers registered with the office of the Registrar of Newspapers for India shall be eligible for inclusion in the approved list for release of advertisements.
- 2) Advertisements shall be issued only to such newspapers as have been included in the approved list of Central/State Government for release of advertisements. For preparing the approved list, there should be a Committee with due representatives of officials as well as non-officials from among media personalities. For the purpose of selecting the newspapers for release of advertisements of different kinds, the authorities should be guided by the following criteria:
 - a) Newspapers will be considered as being eligible for advertisement if it has had regular and uninterrupted publication for four months.
 - b) A newspaper seeking advertisement should fulfill the requisite qualification already prescribed by State and Central Government in regard to periodicity and regularity of publication, size of the publication, printing arrangements, editorial and managerial set-up.
 - c) The circulation of a newspaper has a bearing on the extent of advertisement released. The sources from which authenticated circulation figures could be obtained are:
 - i) The Registrar of Newspapers for India;
 - ii) Audit Bureau of Circulation; and

- iii) Chartered Accountant, certifying annual circulation statement,

The Figures obtained through anyone of these sources should be acceptable for determining the circulation of a newspaper to be enlisted and no other party should question the certificate issued by either of the three above.

- d) Payment of bills by the government should be made within a period of 45 to 60 days of the publication of the advertisement. The payment could be made at reasonable prevalent commercial rate, less 20% commission in view of the bulk value of release.
- e) It will be desirable that small newspapers having regional content are given some weightage.
- f) Suitable weightage may also be given to language newspaper/periodicals published from remote areas, such as North-East, tribal belts and hilly region and small paper run by linguistic groups.

- g) As far as possible, organs of political parties should not be unduly patronized by the governmental authorities.

General:

A list of newspapers eligible for empanelment should be made a public document available on request. The list

should be periodically sent to the Press Council of India, the RNI and also to the recognised newspaper associations.

All disputes regarding inclusion/non-inclusion/removal from the approved list for release of advertisements should be referred to an independent body which may consist of representatives of the Government and disinterested members of Press from socio-journalistic fields. Alternatively, dispute could be referred to a body created on the pattern of Press & Registration Appellate Board which may consist of the Chairman of the Press Council of India and four other members.

These guidelines are not exhaustive because of the limited nature of the issue involved. They have been prepared with the object to eliminate any possibility of discrimination which may directly or indirectly affect the freedom of the Press.

n) Report of the Sub-Committee to Examine the Report of Interlocutors on Media and Media Scenario of Jammu & Kashmir

Adopted by the Council on 09.10.2017

The topography of the state of Jammu & Kashmir is quite unique: the different natural features and climates of its three regions — Jammu, Kashmir (valley) and Ladakh — make for an interesting study in compatible contrasts. So does its social topography of different cultures, languages and lifestyles of the people of the three regions. The media of the three regions, too, faithfully represent these contrasts. With a

density of 124 persons per square kilometer, according to the population statistics of 2011, Jammu and Kashmir is one of the least densely populated States of the Union of India and ranks 28th among its 35 states and Union territories. The State had a total population of 1,25,48,926 in 2011 with a literacy rate of 68.70 percent.

The report of the special interlocutors on J&K made certain pointed observations in regard to the functioning of the media in the State. The Information Department of the State Government requested the Press Council of India to advise/guide it about the measures required to be taken in respect of the recommendations made by the Report of the Interlocutors, which says :

1. Publishers have alleged that newspapers that do not toe the official line are denied government advertisements. On the other hand, the Government alleges that certain newspapers publish unsubstantiated stories and engage in a vilification campaign. Both these matters need to be investigated by a body like the Press Council of India or the Editors Guild of India.
2. Allegations have also been made to the effect that publishing houses inflate their circulation figures to engage in malpractices.
3. The sources of funding of newspapers are also a matter of unhealthy speculation. A thorough investigation carried out by the Press Council of India can alone settle the issue.

Pursuant to this, the Press Council of India, taking cognizance of the matter, constituted a five-member sub-

committee to examine the Report of the Interlocutors on media and media scenario. The Sub-Committee consists of S/Shri S.N. Sinha, Convenor; G. Sudhakar Nair, Dr. Suman Gupta, Sondeep Shankar and Prakash Dubey. The committee later decided to co-opt Shri C.K. Nayak as its member.

The Sub-Committee also decided to interact with the Interlocutors and prepared a list of veteran journalists related to J&K to discuss the recommendations of the interlocutors. The Sub-Committee also decided to write to the J&K Government, Ministry of Home Affairs, the RNI and the DAVP to provide lists of the State's newspapers against whom they may have received specific complaints of foreign funding/anti-national writings and the action taken thereon with due reasons for such action. The Central and State Governments may also provide details of newspapers which were delisted for advertisements during the past five years.

In the interaction, Shri Dileep Padgaonkar and Prof. Radha Kumar of Interlocutors and a number of journalists working outside J&K gave the detailed background of the newspapers' history and their writings and suggested that the committee should visit all three regions of J&K, that is, the Valley, Jammu and Ladakh, to understand the ground reality and the problems faced by media persons.

The committee visited Kashmir and met various groups of media persons and officials numbering about 300, of the J&K Correspondents Club, Kashmir Working Journalists Association, Working Journalists Association Kashmir, Kashmir Young Journalists Association, Kashmir Photo-journalists Association, News Agencies Association, Kashmir Editors Guild, Jammu and Kashmir Joint Forum of

Newspapers Editors, Jammu Newspaper Guild, Officials of Doordarshan, All India Radio and some senior Journalists. It also met government officials and political leaders, including the Hon'ble Governor Shri N.N. Vohra, Chief Minister Mahbooba Mufti Sayeed, Leader of Opposition Omar Abdullah, Finance Minister Haseeb Darbu, and Information & PR Minister Chowdhary Zulfikar Ali, besides senior MLA Yusuf Tarigami and Gulam Hassan Mir. The Committee also interacted with Director Information and officials of the State Information Department, the General Officer Commanding (GOC), 15 Corps, the IG and other officers of the Central Reserve Police Force (CRPF) and the Director General of the J&K Police.

The committee visited Baramulla in North Kashmir and interacted there with the members of the Baramulla Working Journalists Association and officials. Another meeting was held at Anantnag in South Kashmir with the Anantnag Working Journalists Association. The Committee also went to Jammu and interacted there with members of the Press Club Jammu, the Jammu Newspapers Editors Guild, Jammu Newspapers Association, Jammu Kashmir Press Association, All Jammu Newspaper Editors Association (Regd.), J&K Print Media Welfare Association, Online Portals Delegation, Radio Kashmir Jammu, and senior editors and journalists apart from Information Department officials. The committee also went to meet the journalists in Rajouri & Poonch and interacted with delegations of Print and Electronic Media under the banner of the Press club of Rajouri and Poonch. On the last leg of the interactions, the committee went to meet the Journalists of Leh in Ladakh region.

At all these places, media persons were happy to know that a committee of the Press Council of India had come to see them and learn about their problems. They expressed with gratitude their appreciation of the PCI for sending this team to understand the issues related to the Jammu Kashmir media.

The turmoil in Kashmir has adversely impacted the business in general, which has suffered heavily. The media industry, however, saw a growth out of it, but at the heavy cost of reported loss of lives of more than a dozen journalists/media persons. The media's growth has been high during the past two decades, which have seen a big increase in the number of newspapers and periodicals in the State.

The number of government-approved newspapers/periodicals in the State for the release of government advertisements has now increased to as high as 467. The Jammu division accounts for as many as 271 of these, while the Kashmir division has only 196 of these. Ladakh has two publications which are not empanelled. The total number of the State's newspapers/periodicals on the DAVP panel is only 146, of which 58 are from Kashmir and 88 are from Jammu.

The total number of accredited journalists in the State is 265, of whom 130 are in the Jammu Division and 135 in Kashmir. There is no accredited journalist in Ladakh. The global satellite television boom has also impacted Jammu and Kashmir, which shows a big boom in the number of bureaus of news channels and the growth of local cable channels run by cable service operators. The media industry, thus, has become a huge job provider to young journalists. But since private business has been shrinking, there is little scope for private advertising and this is making the media heavily dependent on government advertisements.

The Union and State governments reportedly at times use this situation to their advantage by arm-twisting the media without any legitimate reasons. It was interesting to learn that on occasions, when the Centre stops the advertisement of a particular media house, the State government tries to compensate it by giving it more advertisements from its kitty, and vice versa. We also noticed another anomaly in the accreditation policy of the State government, which grants accreditation only to the journalists of Srinagar and Jammu. No accreditation is given to any journalists working from other regions or districts. The State Government has, of course, come out with an accreditation and welfare policy for journalists but it has yet to implement it. The advertising and empanelment policy has also been made but not fully implemented as yet. It is a general complaint of newspapers that they are discriminated against because of the non-implementation of the policy. The Government needs to be more sensitive towards journalists who are also serving democracy while doing their duty. It must, therefore, take urgent steps to implement the new welfare policy for media persons without any further delay.

Going through the two narratives of the Kashmiri media and the media of the rest of India, it is clear that the complexity of the situation throws up big challenges for the State's media. They have to make difficult decisions in different areas from field coverage to newsroom decisions to editorial policy because of different political and militaristic as also militants pulls and pressures. The journalists working in Kashmir have to manage the reality of walking on the tightrope amidst the threats of gun and political arm-twisting.

Interwoven in the media story of Jammu and Kashmir are the regional sub-nationalisms, turning it into Jammu versus Kashmir, as the two regions of the state pull in different directions. In the national media, the focus of the news mostly remains on politics, military and ceasefire violations. The State-centric approach to cover a state like Jammu and Kashmir has led to the alienation of its people. The people were sensitive about the way they were being reported in the national media particularly electronic media which is seen as deliberately misinterpreting facts and events. Each one in Kashmir, from the Governor to the Chief Minister to other political leaders to armed forces to journalists to common persons on the road echoed the sentiment expressed by the Chief Minister when she said: "I request the national media, the electronic media, not to show such discussion on television that develops hatred against the people of Jammu and Kashmir throughout the country. There are some who pelt stones, but not all the youth from Kashmir pelt stones." Jammu and Kashmir is the crown of India and people of the state have a right over every inch of the nation.

"It (Jammu and Kashmir) is the soul of this country. When there is Jammu and Kashmir, there is India. The people of Jammu and Kashmir have a right not only over Jammu and Kashmir, but over every part of the country and they should assert it," she said.

According to her, the so-called national TV channels are doing great harm to both the nation and Kashmir in the name of patriotism by interpreting it wrongly.

The power of the media has to be understood by the political leadership and officials in the State and the Centre

as well as the armed forces operating throughout Jammu and Kashmir to provide authentic news from direct sources to the local media. Today news travels very fast and it will not wait for any information after a time. So the correct news has to be shared by the authorities without wasting time. This will help curb the rumours that spread like a wild fire on social media.

Jammu, Kashmir and Ladakh are surrounded by hostile countries and the media working in such conditions needs special attention in terms of the enemy's propaganda war, people's faith and the country's safety.

The Press Council of India Committee is thankful to the State's Director of Information & Public Relations and his staff for cooperating with us and facilitating the required assistance to us. We are also thankful to all political leaders and officials of the armed forces for their cooperation to apprise us of the media scenario in the state. We are especially thankful to all media friends who gave us time to understand the problems of the media and their working in such hostile conditions.

We hope our detailed report and recommendations will find a solution to the problems of the media and help them to make a strong and vibrant free media in the state of Jammu & Kashmir as the Press is an essential part of the democratic setup. Kashmiriyat is unique to Kashmir but it is also in harmony with the best values of Indian society.

Conclusion:-

- A. During the committee's interaction with various newspaper editors, owners and journalists, they all spoke about the discrimination they, particularly

medium and small newspapers/periodicals, faced in the issue of government advertisements and the rates of the state which is one of the lowest in the country. The committee appreciates this problem as the State does not have much industrial or commercial advertisement support because of the problems it faced from decades. Since the survival of the media is vital in the interest of the nation and democracy, it has to be supported by the government. The State Government has also come out with a policy of empanelment and advertisement but it shall have to be implemented in full without discrimination.

- B. As for the issue of inflated circulation figures of newspapers/ periodicals, the committee is aware that it is a country-wide phenomenon. The State's Information directorate and the RNI must check the circulation figures through different modalities and act accordingly. The issue of the publication of newspapers and periodicals by retired information department or other government staff to corner government advertisements, too, is a reality and has to be put to an end by the Government only.
- C. As for the issue of unhealthy sources of funding of some media organisations, we can understand that conclusive evidence of such funding is difficult to come. Even the government agency could not provide any evidence in this regard, though there is some talk about funding from across the border. They alleged that funding across the border was there some 25 years ago, but it cannot be verified or crosschecked now. There is no major complaint about such funding of

newspapers now, but there are such suspicions because of “anti-Central/State government or anti-armed forces writings” by some newspapers and journalists. The Government and their agencies should file complaints in such cases with the Press Council of India, which could then consider these on merit and decide the issue. The committee was told by media representatives that government agencies should use all their resources to check and trace any dubious funding and take strong legal action if there is any credible evidence.

- D. The issue of the accreditation of journalists concerns the grass-root journalists. The State’s accreditation committee should consist of the representatives of all the recognized state and national level journalists’ organization. It has come to the notice of the committee that at present only journalists working in Srinagar or Jammu get state accreditation. This facility of accreditation should be extended to journalists working at the district level, too, and in certain special cases, to those working in border areas also.
- E. The state of J&K is passing through a disturbing situation and it is tough to perform journalistic duty in such an environment without adequate safety precautions. News photographers, camerapersons and reporters, therefore, should be provided with safety kits, including bullet-proof jackets and helmets, by their organizations or the Government as they, too, are performing public duty.
- F. The non-availability of information from government agencies compels the journalists to find out news from unauthorised sources, which creates a wrong

impression among the readers or viewers. The committee discussed this issue at length with security agencies and they, too, appreciated the problem. The committee suggested that a combined Information Centre should be formed in all three regions to provide all relevant official information without wasting time to the local media persons.

- G. The issue of curfew passes to the journalists, too, was discussed by the committee. Delay in the issue of curfew passes to media places needless hurdles in their prime work and non-recognition of official curfew passes by security agencies. This creates bad blood between two important functionaries of democracy. Sometimes, the authorities issue “no movement” orders without imposing curfew in the area and this, too, obstructs journalistic work. The government and armed forces, must take care to honour the press accreditation cards and the identity cards issued by recognized media houses.
- H. The committee is really concerned about the stoppage of internet and mobile services in the State. In this age, no media can work without these supports. The policy of curbs on internet and mobile services has to be reviewed urgently. The committee was surprised to know that in the Ladakh region, internet of BSNL was down for four months and even now, no internet or mobile data works in the area regularly. The low powered transmitting system of AIR and Doordarshan is a big handicap in the border area like Ladakh. The authorities need to take care of these issues on a priority basis.

- I. The journalists of the State have been living without any welfare measures for a very long time. Even in cases of death or serious injuries, there is no one to take care of them and they or their families have to face the hardship all by themselves. It is good that the Government has now come out with a policy of creating a journalists' welfare fund. It should cover all journalists and be implemented without wasting any more time. The fund should be monitored by a committee of journalist organizations. The journalists who were injured in recent past should also be taken care of for their medical needs, as promised by the Hon'ble Chief Minister to the PCI committee.
- J. More journalists and media professionals should be encouraged to visit Kashmir to give all aspects of coverage for the rest of the country. The state government should provide adequate support to Directorate of Information & PR to encourage pro-active role their side.
- K. Some special scholarships and internship for young pass out of media institutions to go out of state to get the working experience in their field of journalism. The Jammu & Kashmir media institutions should get more visiting faculty (senior journalists of their field) from outside state to give a broader perspective to future journalists.
- L. The journalists also raised the question of the non-implementation of Justice Majithia Wage Boards and poor payments for the newspaper staff. The committee is of the view that the Government must enforce the

Majithia Wage Board award as directed by the Supreme Court of India.

Recommendations :-

1. The allocation of Advertisement revenue and rate of advertisement in the State should be increased by the State Government. Further DAVP's policy be adopted for the distribution of advertisements.
2. The DAVP should also increase its quantum of advertisement in the state of J & K.
3. Small papers/periodicals should be given Centre/State advertisements in all regions of J&K, particularly in border areas.
4. The State's advertisements and empanelment policy should be implemented without any further delay.
5. The government should monitor the reportedly inflated circulation figures of newspapers/periodicals. For this, they can ask the RNI to check it regularly.
6. Journalists working in conflict situations should be provided with bulletproof jackets and helmets.
7. State governments should ensure the implementation of the Majithia wage board award as per the Supreme Court order.
8. The J&K Journalists Welfare Fund scheme should cover all working journalists and be implemented without any further delay.

9. The journalists already injured should be reimbursed all the medical expenses incurred by them.
10. The State should give accreditation at the district level too. In border areas, too, the journalists should be given accreditation to work in the area.
11. The government should ensure a system to provide news/ information without delay to local journalists.
12. The Army and Para military forces should also work out a more liberal and transparent information system to give news as soon as possible to local journalists. The Public Relations Departments needs to play a more proactive role in providing information and facilitating coverage during any operations.
13. Journalists, too, are doing public service during any coverage and, therefore, their accreditation or Press Cards should be duly honoured during curfew or restrictions.
14. Since good relations with the media are seen to help control misinformation, there should be regular interaction between local journalists and armed forces, police and the government.
15. The media, journalists and their professional associations should play a more professional and ethical role at all levels. They must be concerned about their own black sheep within the fold who tarnish the image of media. The aim of the journalists/media should be to build a better society and for this they have right to question the authorities without any personal interest.

16. Any objectionable writing should be clearly defined and reported to the Press Council of India for final disposal. No writing should be branded objectionable and subjected to punitive action until the Press Council has considered the matter and given its views on it.
17. The All India Radio and Doordarshan must be strengthened in the State with full staff strength and latest high-powered transmitting equipment.
18. Private TV channels should be encouraged to prepare and show special programmes on J&K, to project a correct and unbiased understanding of Kashmir in the world.
19. The gap between Jammu and Kashmir and the rest of the national media should be bridged. Inter- regional media exchange will promote a better understanding among Jammu, Kashmir and Ladakh journalists. Similarly, J&K journalists should be encouraged to visit other parts of the nation and interact with their counterparts there. Journalist teams from other parts of the nation should similarly visit the State to interact with the State's journalists to understand J&K.
20. The Government should encourage professional journalist organizations/ associations to hold sessions and seminars in the State.

o) Reporting on Information regarding Mental Health Patients

The media shall not publish photograph or any other information in respect of person undergoing treatment at

mental health establishment without the consent of the person with mental illness.

p) Reporting on Suicide

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

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

q) Advertisement on Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homeopathy

Newspapers shall not publish advertisement regarding Ayurveda, Yoga and Naturopathy, Unani, Siddha, Homeopathy for the use of diagnosis, cure, mitigation, treatment or prevention of any disease, disorder syndrome or condition:

- i) Without Unique Identification Number; or

- ii) the intended advertisement does not contain the contact details of the manufacturer; or
- iii) the contents of the advertisement directly or indirectly tantamount to vulgarity or obscenity; or
- iv) it refers to any Ayurvedic, Siddha or Unani drug in terms which suggest or calculated to lead to the use of that drug or medicine for the enhancement of height and dimensions or capacity of performance of male or female sexual organs; or
- v) it depicts photographs or testimonials of celebrities or government officials; or
- vi) it refers to any Government or Autonomous organization of the Government.

Part C : Laws Relating to the Press

1. Constitution of India*

- i) Article 19(1)(a) read with Article 19(2) (Freedom of speech and expression)
- ii) Article 361-A (Protection of publication of proceedings of Parliament and State Legislature)
- iii) Article 105 and 104 (Parliament and Legislatures Privileges)
- iv) Article 21 (Individual's Right to Privacy emanating from Fundamental Right to life and liberty guaranteed to citizens of India)

2. Press Laws/Acts*

- i) The Indecent Representation of Women (Prohibition) Act, 1986
- ii) The Punjab Special Powers (Press) Act, 1956
- iii) The Press and Registration of Books Act, 1867
- iv) The Dramatic Performances Act, 1876
- v) The Indian Telegraph Amendment Act, 2006
- vi) The (Indian) Post Office Act, 1898
- vii) The Police (Incitement of Disaffection) Act, 1922

* As per time to time amendment made by the Government of India.

- viii) The Official Secrets Act, 1923 (Act No. 1923)
- ix) The Telecom Regulatory Authority of India (TRAI) Act, 1997
- x) State Emblem of India (Prohibition of Improper Use) Act, 2005
- xi) The Representation of the People Act, 1951
- xii) The Delivery of Books and Newspapers (Public Libraries) Act, 1954
- xiii) The Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954
- xiv) The Working Journalists and Other Newspapers Employees (Conditions of Service and Miscellaneous Provision) Act, 1955
- xv) The Prize Competitions Act, 1955(Act No. 42 of 1955)
- xvi) The Hindu Marriage Act, 1955
- xvii) The Young Persons (Harmful Publications) Act, 1956
- xviii) The Copyright Act, 1957
- xix) The Juvenile Justice (Care and Protection of Children) Act, 2015
- xx) The Criminal Law Amendment Act, 2018
- xxi) The Customs Act, 1962

- xxii) The Unlawful Activities (Prevention) Amendment Act, 2012
- xxiii) The Civil Defence Act, 1968
- xxiv) The Working Journalists (Fixation of Rates of Wages) Act, 1958
- xxv) The Contempt of Courts Act, 1971
- xxvi) The Press Council Act, 1978
- xxvii) The Prize Chits and Money Circulation Schemes (Banning) Act, 1978
- xxviii) National Security Act, 1980
- xxix) The Indian Evidence Act, 1872
- xxx) Right to Information Act, 2005
- xxxi) The Information Technology Act, 2000
- xxxii) The Disaster Management Act, 2005

3. Relevant Provisions of Indian Penal Code, 1860*

- a) Section 124- Assaulting President, Governor, etc., with intent to compel or restrain the exercise of any lawful power
- b) Section 153A- Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc. and

* As per time to time amendment made by the Government of India.

doing acts prejudicial to maintenance of harmony

- c) Section 153B- Imputations, assertions prejudicial to national-integration
- d) Section 171G- False statement in connection with an election
- e) Section 228- Intentional insult or interruption to public servant sitting in judicial proceeding
228(A) Disclosure of identity of the victim of certain offences etc,376,376-A,376-B,376-C or 376-D
- f) Section 292-Sale, etc. of obscene books, etc.
- g) Section 293- Sale, etc. of obscene objects to young person
- h) Section 294A- Keeping lottery office.
- i) Section 295A- Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs.
- j) Section 299-Culpable homicide
- k) Section 499-Defamation
- l) Section 500- Punishment for defamation
- m) Section 501- Printing or engraving matter known to be defamatory

- n) Section 502- Sale of printed or engraved substance containing defamatory matter
- o) Section 505 :-
 - i) Statements conducing to public mischief
 - ii) Statements creating or promoting enmity, hatred or ill- will between classes
 - iii) Offence under sub-section (2) committed in place of worship
- p) Section 52 of IPC regarding act and facts relating to good faith

4. Relevant Provisions of CrPC. 1973 (Act No.11 of 1974)*

- a) Section 88 - Power to take bond for appearance.
- b) Section 90-Summons and warrants of arrest.
- c) Section 92- Procedure as to letters and telegrams.
- d) Section 93- When search warrant may be issued.
- e) Section 108- Security for good behaviour from persons disseminating seditious matters.

* As per time to time amendment made by the Government of India.

- f) Section 144. Power to issue orders absolute at once in urgent cases of nuisance of apprehended danger.
- g) Section 177 to 187- Place of inquiry or trial.
- h) Section 195- Prosecution for contempt of lawful authority of public servants.
- i) Section 320 - Compounding of offences.
- j) Section 325 - Procedure when Magistrate cannot pass sentence sufficiently severe.
- k) Section 326- Conviction or commitment on evidence partly recorded by one Magistrate and partly by another

Part D - Press Council's Powers, Practice and Procedures

The Press Council of India was first set up in the year 1966 by the Parliament on the recommendations of the First Press Commission with the object of preserving the freedom of the press and of maintaining and improving the standards of press in India. The present Council functions under the Press Council Act, 1978. It is a statutory, quasi judicial authority functioning as a watchdog of the press, for the press and by the press. It adjudicates the complaints against and by the press for violation of ethics and for violation of the freedom of the press respectively.

The Press Council is headed by a Chairman, who has by convention, been a retired judge of the Supreme Court of India. The Council consists of 28 other members of whom 20 represent the press and are nominated by the Hon'ble Chairman from the press organisations/news agencies recognised and notified by the Council as all India bodies representing editors, working journalists and owners and managers of newspaper and news agencies, five members are nominated from the two Houses of Parliament and three represent cultural, literary and legal fields as nominees of the Sahitya Academy, University Grants Commission and the Bar Council of India respectively. The members serve on the Council for a term of three years. A retiring member shall be eligible for renomination for not more than one term consecutively.

The Council is funded by the revenue collected by it as fee levied on the registered newspapers in the country on

the basis of their circulation. No fee is levied on newspapers with circulation less than 25000 copies. The deficit is made good by way of grant by the Central Government.

Complaint Procedure

1. Complaint Procedure for Filing the Complaint Against the Press

It is open to any person to lodge a complaint with the Press Council against a newspaper for a breach of the recognized ethical canons of journalistic propriety and taste. The complainant need not necessarily be the person aggrieved or directly involved. The alleged breach may be in the publication or non-publication of a news-item or statement, or other material, like cartoons, pictures, photographs, strips or advertisements which are published in a newspaper. Cases can also be initiated by any member of the public against any professional misconduct by an editor, working journalist, staff of a newspaper or engaged in freelance work. There can also be a complaint against any matter transmitted by a news agency by any means whatsoever.

By virtue of the Press Council (Procedure for Inquiry) Regulations, 1979, complaint shall be lodged with the Council within the following periods:

- (i) Dailies, News agencies, weeklies ——within two months
- (ii) In other cases——within four months.

Provided that a relevant publication of an earlier date may be referred to in the complaint.

Write to the Editor First

It is a requirement of the Inquiry Regulations that the complainant should initially write to the editor of the newspaper drawing his attention to what the complainant considers to be a breach of journalistic ethics or an offence against public taste. Such prior reference to the editor affords him an opportunity to deal with the matter in the first instance and thus allows respondent to take such remedial action as he might consider appropriate before the complaint is lodged with the Council. This rule is necessary because it acquaints the editor with the identity of his accuser and the details of the complaint. It is conceivable that in some instances the complainant has been wrongly informed or has misinterpreted the facts. In others, it may be a case of inadvertent error which the editor is only too ready to admit and correct. If complainant would be satisfied, it would be the end of the matter.

Where, after reference to the newspaper, the person desires to proceed with the complaint, he should enclose with his complaint copies of correspondence with the editor, if no reply has been received from the editor, the fact should be mentioned in the complaint.

The complainant has, in his complaint, to give the name and address of the newspaper, editor or journalist against whom the complaint is directed. A clipping of the matter or news-items complained of, in original or self attested copy (English/Hindi translation, if the news item(s) is in Indian language) should accompany the complaint. The complainant has to state in what manner the passage or news-items or the material complained of is objectionable. He should also supply other relevant particulars, if any.

In the case of a complaint against non-publication of material the complainant will, of course, say how that constitutes a breach of journalistic ethics.

The Council cannot deal with any matter which is sub-judice in the law court. The complainant has to declare that "to the best of his knowledge and belief he has placed all the relevant facts before the Council and that no proceedings are pending in any court of law in respect of any matter alleged in the complaint." A declaration that "he shall notify the Council forthwith if during the pendency of the inquiry before the Council any matter alleged in the complaint becomes the subject matter of any proceedings in a court of law" is also necessary.

2. Complaints Regarding Oppression to Press Freedom

A newspaper, a journalist or any institution or individual can complain against Central or State Government or any organization or person for interference with free functioning of the press or encroachment on the freedom of the press. Such complaints should contain full particulars of the alleged infringement whereupon the Council shall follow the procedure of inquiry set out herein above so far as may be.

The opinion expressed by the Council sub serves two useful purposes, namely (i) that any abuse of press freedom does not pass without anybody noticing it or raising a finger of protest, and (ii) that the press should not in its own interest indulge in scurrilous or other objectionable writings, such as have been considered below the level of recognized standards of journalistic ethics by a fair minded jury like the Council constituted of the press itself, for it would lead to the very loss of the much prized freedom of the press.

Part E - Good Practices in Journalism

- i) A mistake of inconspicuous nature cannot be said to be violating the code of conduct of journalism. However, an error simpliciter shall needed to be corrected.
- ii) Great editors keep erasers and do not hesitate in using it when an error is pointed out.

Address your complaints or inquiries to:

The Secretary,

Press Council of India,

Soochna Bhawan, 8-C.G.O. Complex,

Lodhi Road, New Delhi-110003

Phone: 91 (011) 24366403/24366745

(Extn. 335, 336, 110 & 111)

Telefax: 91 (011) 24366405/24366745 (Extn. 224)

Email : pcibppcomplaint@gmail.com

Website : www.presscouncil.nic.in

“Sections 13, 14, 15 of the Press Council Act, 1978 and the Press Council (Procedure for Inquiry) Regulations, 1979 may be referred for complaint mechanism and working of the Council”.

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ANNEXURE. R9

**F. No. A-50013/31/2021-DM
Government of India
Ministry of Information & Broadcasting
Digital Media Division**

Shastri Bhawan, New Delhi
Dated: 26 May, 2021

PUBLIC NOTICE

Subject: Furnishing of information by digital media publishers under Rule 18 of the Information Technology (Intermediary Guidelines and Digital Media Ethics Codes) Rules, 2021

Attention is invited to the Information Technology (Intermediary Guidelines and Digital Media Ethics Codes) Rules, 2021, notified by the Government of India on 25th February, 2021.

2. Since the notification of the aforementioned rules, the Hon'ble Minister of Information & Broadcasting has held interactions with the publishers of online curated content, as well as the publishers of news on digital media. The Ministry has also established communication with many digital media publishers, and their associations, regarding the rules and their compliance requirements. A total of around 60 publishers, and their associations, have also informed the Ministry that they have already initiated the process of formation of self-regulatory bodies under the rules. Some publishers have also written to the Ministry regarding registration with the Ministry under the rules.

3. In this regard, it is hereby informed that there is no requirement for prior registration of digital media publishers with the Ministry. Rule 18 of the Information Technology (Intermediary Guidelines and Digital Media Ethics Codes) Rules, 2021 instead provides for furnishing of certain information by the publishers of news and current affairs content, and publishers of online curated content, to the Ministry.

4. Since newspapers are registered under Press and Registration of Books Act, 1867, and private satellite TV channels are permission holders under the Uplinking and Downlinking Guidelines (2011) of the Ministry, a separate format for furnishing information, as in **Appendix I**, has been devised for such entities publishing news and

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current affairs on digital media. For all other digital news publishers, the relevant format is at **Appendix II**, while for OTT platforms, the format for furnishing information is at **Appendix III**.

- Appendix I for digital news publishers which also publish/telecast news on traditional media (TV and newspaper);
- Appendix II for other digital news publishers;
- Appendix III for publishers of online curated content (OTT platforms)

5. The publishers may furnish the information to the Ministry in the applicable format within 15 days of the issue of this notice. The information, as a pdf file duly signed by the authorised person on behalf of the publisher, may be sent via email to:

- Shri Amarendra Singh, Deputy Secretary, Ministry of Information & Broadcasting (Email: amarendra.singh@nic.in), or
- Shri Kshitij Aggarwal, Assistant Director, Ministry of Information & Broadcasting (Email: kshitij.aggarwal@gov.in).

6. For any doubts or clarifications, the publishers may contact the above mentioned.

7. This issues with the approval of the competent authority.



26/05/2024

(Kshitij Aggarwal)

Assistant Director (DM)

Email: kshitij.aggarwal@gov.in

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Appendix I

Format for Furnishing Information from Digital News Publishers which also publish/telecast news on traditional media (TV and newspaper)

I. Basic Information

- A. Name of the Title:
- B. Language(s) in which content is published:
- C. Website URL:
- D. Mobile App(s):
- E. Social media account(s):

II. Entity Information

- A. Name of Entity:
- B. RNI Registration Number or TV Channels permitted by the Ministry:

III. Contact Information (in India)

- A. Contact person(s):
- B. Address:
- C. Telephone Number (Landline):
- D. Mobile:
- E. E-mail:

IV. Grievance Redressal Mechanism

- A. Grievance Redressal Officer (in India):
- B. Name of the Self Regulating Body of which the publisher is a member:
- C. Particulars of News Editor(s):

(Note: In case of any changes in the particulars given above, the entity should inform the competent authority within 30 days of any such change taking place)

Appendix II

Format for Furnishing Information from Digital News Publishers

(other than those referred to in Appendix I)

1. Basic Information:

- A. Name of the Title:
- B. Language(s) in which content is published:
- C. Website URL:
- D. Mobile App(s):
- E. Social media (all outlets) account(s):

II. Entity Information

- A. Name of Entity:
- B. PAN No. (optional):
- C. Month and Year of Incorporation:
- D. Month and Year of commencement of operations as digital news publisher:
- E. Company Identification Number (for companies only):
- F. Board of Directors (for companies only):

IV. Contact Information (in India)

- A. Contact person(s):
- B. Address:
- C. Telephone Number (Landline):
- D. Mobile:
- E. E-mail:

V. Grievance Redressal Mechanism

- A. Grievance Redressal Officer (in India):
- B. Name of the Self Regulating Body of which the publisher is a member:
- C. Particulars of News Editor(s):

(Note: In case of any changes in the particulars given above, the entity should inform the competent authority within 30 days of any such change taking place)

Appendix III

Format for Furnishing Information from OTT Platforms

I. Basic Information

- A. Name of OTT Platform:
- B. Website URL:
- C. Mobile App(s):

II. Entity Information

- A. Name of Entity:
- B. PAN No. (optional):
- C. Month and Year of Incorporation (for Indian companies):
- D. Country of registration (in respect of foreign entities):
- E. Month and Year of commencement of operations in India:
- F. Company Identification Number (for Indian companies):
- G. Names of Board of Directors (for companies):

III. Contact Information (in India)

- A. Contact person(s):
- B. Address:
- C. Telephone Number (Landline):
- D. Mobile:
- E. E-mail:

IV. Grievance Redressal Mechanism

- A. Grievance Redressal Officer (in India):
- B. Name of the Self Regulating Body of which the publisher is a member:
- C. Particulars of Content Manager(s):

(Note: In case of any changes in the particulars given above, the entity should inform the competent authority within 30 days of any such change taking place)