

EXAMINING THE ANOMALIES OF CONTENT REGULATION OF NEWS CHANNELS



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In This Issue

COVER STORY:

Examining the anomalies of content regulation of news channels

SECTION 1: ECONOMY/GOVERNANCE

- **Artificial Intelligence would have huge effect on jobs in the future**
- **Downgrade of China's consumption creates tension in the economy**
- **Rajasthan launches breastfeeding drive to lower down infant deaths**

SECTION 2: INTERNATIONAL AFFAIRS

- **Australia gets its fifth PM in five years**
- **China wants to join TAPI project**
- **Debate on Clerical Abuse resurfaces in Ireland with The Pope's visit**
- **Aelous mission has been launched to track the winds.**
- **Peace movement grows in Afghanistan after 17 years of war.**

SECTION 3: ENVIRONMENT

- **Tourist landscapes in the Alps turning unrecognizable due to Climate Change**
- **Brazil: Murder of indigenous leader highlights threat to way of life.**

SECTION 4: HEALTH

- **Brazil: Murder of indigenous leader highlights threat to way of life**
- **Delhi HC asks MCI to put in place sentencing guidelines for Delinquent Doctors.**

Lead Essay

Examining the anomalies of content regulation of news channels

Introduction

The proliferation of private broadcasting on television in last two decades in India has accorded it the most dominant position in the media landscape of the country. News channels have been at the centre of this expansion. Out of 877 channels permitted by the government to operate in India, 389 are news channels¹. This growth, unfortunately, has not been reflected in the regulation policy of the channels. Nowhere, is this inadequacy more evident than the content regulatory mechanism of news channels. A series of events in the recent times have again laid bare the structural loopholes with regard to regulating content on news channels. A number of news channels have been criticized for overlooking facts and disseminating one-sided communally charged news. These include the coverage of honor killing of a youth in Delhi (Punwani, 2018), Hadiya Court case (Punwani, Reporting Communal Issues Part -2, 2018), Bhima Koregaon issue (Seshu, 2018) and the bill criminalizing Triple Talaq (Seshu, Times Now, same old tricks, 2017). These incidents have contributed immensely in jeopardizing the credibility of news channels in the recent times. Surprisingly, none of these channels have garnered the attention of the bodies and agencies responsible for regulating the television news.

In another major incident concerning television news, the managing editor and the anchor of the 9 PM show of ABP news, a Hindi broadcast news channel resigned from their respective positions. The anchor claimed that their resignations were triggered by government authorities' pressure on the channel (ABP proprietor told me not to name Modi, I&B official said 'anything can happen', says PP Bajpai, 2018) for being critical of government's policies.

It is important to recognize here that the problem with television news requires intervention in other aspects of their working as well. The issues like media ownership patterns and revenue model, journalist rights, tariff charges impact the working of the news channels as well as the content. In this issue of Policy Watch, we will discuss and analyse some of the core issues related to content regulation of news channels.

Where are we currently?

Going by the official pronouncements of the government, the present mechanism to regulate content on news channels (other than the protection and provisions provided in the constitution) can be classified in two parts:

1. Self – Regulatory mechanism

Self-regulation in Indian context can be defined as the form of regulation wherein state refrains from intervening in matters related to industry and delegates the responsibility to association from that particular industry, in this case media. Formed in year 2008, News Broadcasting Association (NBA) – a representative of news and current affairs channels set up News Broadcasting Standards Authority (NBSA) to consider complaints against news channels related to content on news and current affairs channel by 13 founding members (Comprising Twenty-nine channel) of Indian Television News Network. NBA created its own code of ethics and Broadcasting Standards. The Association got the code of ethics approved by the Ministry of Information and Broadcasting as well as the Delhi High Court. NBSA is headed by a former judge of Supreme Court and constitutes of four eminent persons from different fields and four working editors of member news channels.

2. State-control

- Firstly, every private channel in India needs to comply with the programme and advertising code prescribed under the Cable Television Networks (Regulation) Act, 1995 and Cable Television Networks Rules, 1994.

Lead Essay

- The public grievance portal <http://pgportal.gov.in> was listed out as the channel through which complaints regarding private telecast can be received².
- The government has established the Electronic Media Monitoring Centre (EMMC) to monitor the content in electronic media to monitor the content and report any violation of the programming and Advertising Codes prescribed under the Cable Television Networks (Regulation) Act, 1995 and Cable Television Networks Rules, 1994. Established in 2008, at present, EMMC has the capacity to record and monitor content of 900 channels³. It puts out a report on violations along with the recorded clips to the scrutiny committee. The committee then examines the violations. It then forwards the clips to the Inter-Ministerial Committee (IMC) and other bodies for action (Dubudu, 2015).
- Government of India set up the Inter-Ministerial Committee in 2005 “to look into the complaints against, taking cognizance either suo motu or otherwise of, programme and advertisements telecast” on Private Channels. The Committee is headed by Additional Secretary of Ministry of I & B. It has representatives from Ministry of Home affairs, Defence, External Affairs, Law, Women and Child Development, Health & Family Welfare, Consumer Affairs and a representative from Advertising Standards Council of India. According to the government, IMC functions in a recommendatory capacity. The final decision regarding penalties and its quantum is taken by the Ministry on the basis of the IMC recommendation.
- State/ District level mechanism - The Information and Broadcast ministry to enforce the cable act and rules at State/ District rules level, issued order on 6.9.2005 for “Monitoring Committee for the Programme and Advertisements telecast by Cable TV Channels” at the state and district local level. The annual report of I & B ministry 2016-2017 states that a total of nineteen state level committees have been set up. 5 Union Territories and 296 districts have also set up the monitoring committees. The district committee is headed by the district magistrate or the police commissioner. The state level committee is headed by the Secretary, Information & Public Relations of the State. The complete composition and the function can be read here⁴.

Common Cause India Petition and the verdict

In 2013, Common Cause India a Non-profit organization based in Delhi filed a petition in the Supreme Court. Demanding the court to intervene, it argued that the existing mechanism is ineffective and riddled with structural problems. It complained that there was no complaint redressal mechanism for complaints against news channels and FM radio channels (Anand, 2017).

The court in its verdict dated 12.01.2017 while recognising the existing mechanism ordered two directives to the government⁵:

- Firstly, it advised the central government that since it has already framed the rules in the nature of Cable Television Network rules, 1994, it should also formalize the complaint redressal mechanism. This should include 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 mechanism (Set up mechanism to hear complaints about TV content: SC, 2017).
- Secondly, it stated that the general public is not aware of the existing mechanism, therefore it requires adequate publication and promotion amongst the common public. This will enable complaints to air their grievances.

² <http://164.100.47.190/loksabhaquestions/annex/15/AU3759.pdf>

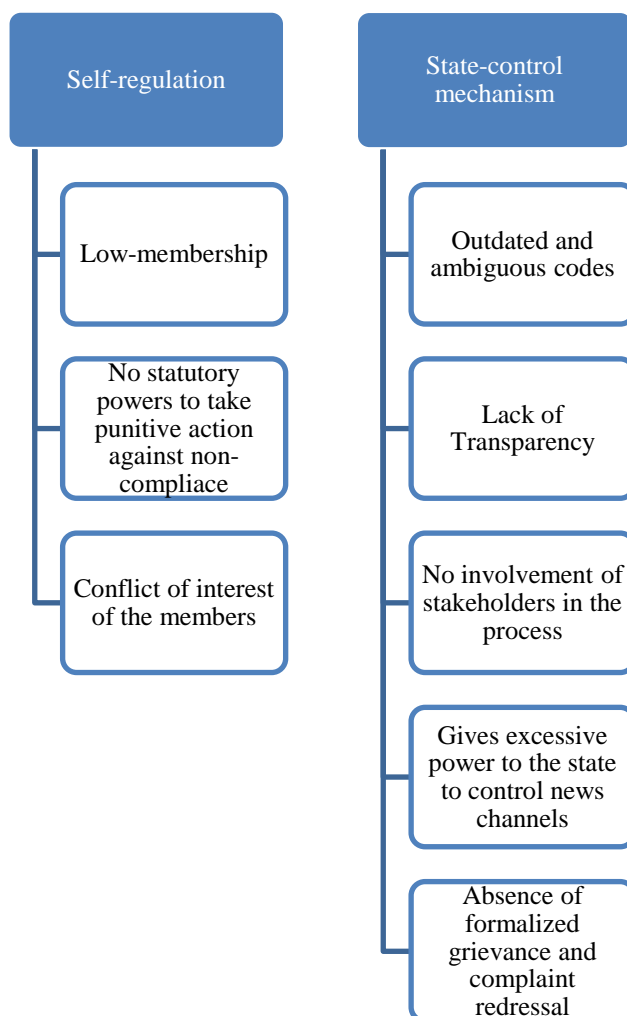
³ https://mib.gov.in/sites/default/files/Annual%20Report_2017-18%20%28English%29.pdf

⁴ https://mib.gov.in/sites/default/files/Annual_Report_2016-17%20%281%29.pdf

⁵ <http://www.commoncause.in/uploadimage/case/941929885Judgment%20FM%20Radio%20and%20Crime%20and%20Violence%20on%20TV%20case.pdf>

Lead Essay

Analysis



1. Has Self-Regulation worked?

Self regulation of news channels in India (NBSA in this case) has proved to be ineffective in dealing with media's transgressions. Started in late 2008, the body will complete its 10 years in few months time but its mechanism has failed in countering the flaws of news channels in India. The self-regulatory body suffers a number of issues:

- a) **Low membership** – The body at present has 29 news and current affairs broadcasters comprising 71 news and current affairs channel. Compared with the total number of news channels (389), **the number is abysmally low**. This has a direct consequence on its working since the body cannot take any action or decision against the channels which are not part of it.
- b) **No punitive power with NBSA (or NBA)** - NBSA's credibility has repeatedly come under fire due to its inability to take action against non-compliance by its members. The latest example is that of Zee news which has repeatedly refused to act on the directives by NBSA after being found guilty for its coverage of a Mushaira attended by Prof. Gauhar Raza

Lead Essay

(Media oversight body rejects Zee News' appeal, asks it to apologise to poet Gauhar Raza, 2018). The defiance shown by one of the founding members of the body after 10 years of its existence is a testament of NBSA's inefficacy.

- b. Conflict- ridden** - A regulatory body for news should not only independent of Government control but it should ideally also be free from news industry's influence. The NBSA, set up by NBA, a lobby group for prominent news channels of the country, completely fails on this account. Moreover, all these channels work on free market principle. So to expect them to go against their own interest for sake of public interest would be quite ingenuous of us.

2. State-control

- **Outdated and ambiguous codes** – The programming and advertising code⁶ needs to updated to keep up with the contemporary times. The code was designed when the private broadcast industry was in its infancy. Moreover, the ambiguity of the existing code leaves immense scope for misuse. For example, clause 6 (a) seeks to prohibit programmes that offend 'good taste or decency, both the terms 'good taste' and 'decency' are extremely vague to be part of code that seeks to define the norms of broadcasting television in 2018. Lastly, such clauses are not in synch with Article 19(1) (a) of the constitution. If public complaints are formalized on the basis of the same code, it could prove counterproductive for news culture. Furthermore, the government ordered a total of 31 channels to go off air for violating the code from year 2005-2016⁷. In more recent disclosures, government stated that it issued a total of 55 advisories/warnings/ orders from 2014 to 2017 for violating programme and advertising code⁸ and banned 8 channels from 2014 to 2018. These fact that these steps were taken based on the complaints by EMMC monitors tells us that EMMC now commands the central position in government's plan to regulate television content.
- **EMMC – A clear case of Surveillance**
 - a. **Lack of Transparency** –EMMC has repeatedly failed to produce public records of either the cases reported by it for violation or of other tasks mandated by the government. The only time it made the records public was in year 2014-15 in response to an RTI. Moreover, on August 9, 2018, Factly, an online portal reported that EMMC website has been inaccessible for months now and on being asked the reason behind the same, the reason stated is non-availability of website programmers (Dubudu, Government says the EMMC website is down because 'there is no Programmer', 2018). As the case with EMMC, there is no public data available on cases that have pursued by the state/district committees.
 - b. **No involvement of Stakeholders** – EMMC in its working, is antithetical to almost every parameter of an independent regulation of content on news channels. It gives unhindered power to the state without any check and balances. There is no involvement of any stakeholders in any capacity. This along with lack of public records allows the government to covertly cases covertly to suppress any contrarian and critical opinion as per its needs and convenience. This was evident in the recent case of ABP news.
 - c. **Overrides self -regulation** - The mechanism developed by government while pursuing cases reported by EMMC overrides the self-regulation bodies mechanism by NBA, this not only raises doubts over it seriousness in acknowledging self-regulation but further dilutes the credibility of bodies such as NBSA. It is important to note here that although the government recognizes all the self-regulation bodies, there has not been any written formal agreement in public regarding the same.
 - d. **No formalized complaint redressal system** – The government was advised by the Supreme Court to formalize the complaint redressal system with provisions such as "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

⁶ <http://164.100.47.190/loksabhaquestions/annex/11/AS187.pdf>

⁷ <http://164.100.47.190/loksabhaquestions/annex/10/AU2408.pdf>

⁸ <http://164.100.47.190/loksabhaquestions/annex/12/AU3812.pdf>

Lead Essay

redressal mechanism” (Set up mechanism to hear complaints about TV content: SC, 2017). It was also advised to promote the existing mechanism amongst the make common citizens. None of these have been put in place even after twenty months of the order. Although, the government in its latest response stated that it receives complaints against private broadcasters through public grievance portal, it did not specify any of provisions stated in the order.

Way Forward

The reach and influence of television has multiplied exponentially in last two decades. Television as Nalin Mehta argues, has acquired the place of ‘vanguard’ of the new order in the post- liberalization social imagery in fights over free speech (Mehta, 2015). Attempts by the government to regulate news channel has been framed as an attack on the new ‘liberalized’ order. While any intervention by the government in regulating news channels needs to be analysed critically, the deterioration of quality of news in broadcasting channels requires immediate attention. The complete failure of self-regulatory model developed by the most prominent news organizations is a reminder that mechanism is nothing but a tool by the media corporations to derail any substantial deliberations over interventions by other stakeholders.

The existing mechanism seems to be one of convenience for both government and big media houses with few exceptions here and there. With no stakeholders involvement the government gets unbridled power and can hence furtively pursue cases while still claiming to not interfere in media’s working. On the other hand, it saves big media houses from any comprehensive statutory mechanism that might challenge its authority from outside. The biggest casualty of this mechanism is public interest.

Any attempt to enhance the receding credibility of news channels without curtailing their freedom requires non-partisan approach. An autonomous regularity authority independent of government as well as media houses can be the first step in it. Every news channel must be required to register itself with the authority and follow its orders. It should be given statutory powers to act against channels. It should have members from different stakeholders i.e. journalists, civil society groups, academics etc. The body should also be mandated to deal with other issues related to news channels like ownership patterns, TV journalists ‘rights, carriage issues to develop a comprehensive mechanism for news channels’ working. This requires political will as well as participation of broadcasters and media organizations.

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Economy/Governance

Artificial Intelligence would have huge effect on jobs in the future (CNBC, Aug 20, 2018)

The new digitally driven paradigm shift which could be termed as the fourth Industrial Revolution can impact economy and the lives of people in many ways. According to the Chief Economist of Bank of England Andy Haldane the unemployment levels due to artificial evolution would be as large as the previous Industrial Revolution. Machines starting to think and work will bring the darkest results of technological revolution.

To read more: <https://www.cnbc.com/2018/08/20/bank-of-england-haldane-ai-could-threaten-large-amount-of-jobs.html>

Downgrade of China's consumption creates tension in the economy (CNBC, Aug 22, 2018)

China is trying to reduce consumption by small and big ways. People are quitting avocado, riding bikes instead of taxis, and drinking beer instead of cocktail. With the economy of China slowing down, and the trade war with United States of America, people are worried about their future. The economy of China which appears strong is showing slight cracks. The low consumption of China has the potential to affect the global economy and could embolden Mr. Trump in his trade fight.

To read more: <https://www.cnbc.com/2018/08/22/chinas-consumption-downgrade-skip-avocados-cocktails-and-kids.html>

International Affairs

Australia gets its fifth PM in five years (Guardian, Aug 24 2018)

Malcolm Turnbull, has been brought down from Prime Ministership in Australia by the challenge of split or leadership contest. The new Prime Minister is Scott Morrison, who was Turnbull's former treasurer. Turnbull chose to not participate in the contest, in which later Morrison beats Button, the former Home Affairs Minister. Morrison is the fifth Prime Minister of Australia in last five years.

To read more: <https://www.theguardian.com/australia-news/2018/aug/24/scott-morrison-to-become-australian-pm-as-turnbull-denounces-insurgency>

China wants to join TAPI project (Statesman, Aug 23, 2018)

The TAPI (Turkmenistan, Afghanistan, Pakistan, India) pipeline is a natural gas pipeline built from Turkmenistan to India. There are reports that China wants to build a link to TAPI pipeline from the Pakistan's territory since a pipeline from China to Turkmenistan would be very expensive. The link would give a thrust to Belt and Road Initiative of China (BRI), which was opposed by India. India is not keen to bring China into the pact as it would show her diluted stand on BRI.

To read more: <https://www.thestatesman.com/india/china-interested-to-join-tapi-pipeline-with-pak-support-1502676529.html>

Debate on Clerical Abuse resurfaces in Ireland with The Pope's visit (New York Times, Aug 23, 2018)

There have been a huge number of cases against Clerical authorities for sexual abuse all over the past years. A few cases have been put on trial, and the convicts have been punished but there has been no proper law and structure to keep Churches away from abuse. There have been such cases registered all over the world and still no step has been taken to combat such crimes. During this visit the Pope is expected to speak out against it and also take suggestions.

To read more: <https://www.nytimes.com/2018/08/23/world/europe/francis-ireland-sexual-abuse-catholic-church.html?rref=collection%2Fsectioncollection%2Fworld&action=click&contentCollection=world®ion=rank&module=package&version=highlights&contentPlacement=1&pgtype=sectionfront>

Aelous mission has been launched to track the winds. (BBC, Aug 25 2018)

The European Space Agency launched the Aelous Mission from its spaceport in Kourou, French Guiana. The mission carries revolutionary ultraviolet laser technology to measure the winds around the globe. It will be the first satellite to provide wind profiles that being at the surface of the Earth. At present, this is data we do not collect, and that has been highlighted by the World Meteorological Society as a big gap in our global observation system. This data will be used to make more accurate weather forecasts, and improve air-quality models .

To read more: <https://www.bbc.com/news/science-environment-45100090>

Peace movement grows in Afghanistan after 17 years of war. (Washington post, Aug 25 2018)

A group of peace marchers have started a march and have been keeping their hope alive in the mid of the renewed bloodshed which has dampened the hopes for breakthrough in the conflict that followed the June cease-fire and a high level meeting between U.S diplomats and Taliban representatives in July. The group originally formed in southern Helmand and they have been staging peaceful protests there. Since the formation of the Helmand peace movement, others have sprung up in different areas of the country, holding rallies and sit-ins and calling on all warring parties to hold peace talks.

To Read more: https://www.washingtonpost.com/world/the_americas/after-17-years-of-war-a-peace-movement-grows-in-afghanistan/2018/08/18/662e4812-a0cc-11e8-a3dd-2a1991f075d5_story.html?utm_term=.80266d007969

Environment

Tourist landscapes in the Alps turning unrecognizable due to Climate Change (Guardian, Aug 24 2018)

Mountaineers say that the landscape in the mountains of Alps has been changing rapidly due to climate change. There is a strong acceleration and the glacier surfaces have shrunk by half. Mer De Glace, the largest glaciers in France and the biggest tourist spot has turned unrecognizable. Melting of permafrost is leading to rock falls making mountain climbing more dangerous.

To read more: <https://www.theguardian.com/environment/2018/aug/24/climate-change-is-melting-the-french-alps-say-mountaineers>

Brazil: Murder of indigenous leader highlights threat to way of life. (Guardian, Aug 24 2018)

In the series of recording deaths across the world while defending Environments, Guardian has reported that Indigenous people in the Brazilian Amazon are mourning the murder of a community leader who campaigned to protect the forest from logging amid increasing violence in the region. Members of the tribe say his death was the result of a fierce conflict provoked by the incursion of loggers into their land. Upto 80 Guajajaras have been killed in the area since the year 2000.

Guajajara's candidacy has cast the spotlight on the Guajajaras, one of Brazil's largest indigenous groups, who inhabit more than 10 protected areas in the eastern margin of the Amazon in Maranhao.

To read more: <https://www.theguardian.com/environment/2018/aug/16/brazil-jorginho-guajajara-amazon-indigenous-leader>

Health

Delhi HC asks MCI to put in place sentencing guidelines for Delinquent Doctors.

(Livelaw, Aug 25 2018)

The Delhi High Court has opined that the Medical Council of India(MCI) should frame a policy with regard to punishment to be accorded to delinquent doctors for infractions committed by them and has asked the statutory body to report on this aspect within three months.

Case arose as a result of wrong operation on Mr Rai, the petitioner in this case. The Court has also directed that the MCI will complete this exercise at the earliest, not later than eight weeks.

To read more: <https://www.livelaw.in/delhi-hc-asks-mci-to-put-in-place-sentencing-guidelines-for-delinquent-doctors-read-judgment/>

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